

**Access to Microfinance & Improved Implementation of Policy Reform  
(AMIR Program)**

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**JORDAN CAPITAL MARKETS**

**Final draft of Securities Law,  
Recommendations for Amendment to the Companies Law,  
and Suggestions for Regulations Under the Draft Law**

Final Report

**Deliverable for Capital Markets Component, Task No. 5.2.3  
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## ***Executive Summary***

This report is submitted as Deliverable 3 in fulfillment of task 5.2.3, “*Review of Securities Law/Regulations/Guidelines/Procedures.*” The report has three parts, each of which is issued as an appendix to this summary and described below.

### ***Appendix A***

A final version of a draft securities law, reflecting the comments and suggestions provided by interested parties in the public and private sectors through interviews, group discussions and a workshop conducted on January 17, 2001 in Amman under the auspices of the Jordan Securities Commission.

### ***Appendix B***

Revisions of the major regulations, or Instructions, issued under the Securities Law of 1997 to reflect changes proposed in the draft new securities law. Since the draft law has not been enacted as of this date, and it appears that it will not be enacted in this session of Parliament, the revisions submitted herewith are necessarily tentative.

### ***Appendix C***

Recommendations for amendments to the Companies Law.

## APPENDIX A

### Proposed Securities Law (Law No. (##) for the year 2001

#### *Chapter 1* *Definitions*

##### **Article 1. Short title**

This Law shall be cited as “The Securities Law of \_\_\_\_\_”, and shall come into force as of the date of its publication in the Official Gazette unless otherwise provided herein.

##### **Article 2. Definitions**

Wherever mentioned in this Law, the following terms and expressions shall have the meanings ascribed thereto hereunder unless otherwise indicated by context:

**Bank:** A commercial bank licensed by the Central Bank to have the power to accept deposits and other repayable funds from the public, to extend guarantee and commitment service and to conduct money brokering.

**Bonds:** Negotiable securities with a maturity of two years or more from issue for which the interest rate and the terms for the repayment of the principal and the payment of interest are determined at the time of issue.

**The Commission** : The Jordan Securities Commission.  
**The Chairman** : The Chairman of the Commission.

**Person** : Natural or legal person.

**Stock Exchange** : A licensed stock exchange.

**Collective investment pool:** Means a managed portfolio of investments or interests in investments in securities where the beneficial interest is comprised of multiple owners.

<b>Custodian:</b>	A bank or other financial institution authorized by law to hold securities in its own name for the beneficial account of others or as the designated holder for the beneficial owner.
<b>Dealer:</b>	Any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise; provided, however, that the term does not include any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, not as a part of a regular business.
<b>The Center</b>	: The Securities Depository Center.
<b>Investment Trustee</b>	: Any legal person, who, for compensation, undertakes to administer and monitor the management of a clients' investments so as to ensure conformity with the client's investment policy specified in an agreement concluded between the client and the investment manager. .
<b>Investment Manager</b>	: .Any person other than an insurance company, pension fund, provident fund, Social Security fund, or bank (with respect to its own lawful activities) that is engaged in the business of managing securities portfolios or collective investment pools for others.
<b>Financial consultant:</b>	: Any person engaged in the business of providing advice with respect to securities investment to others for a fee, charge or commission.
<b>Financial Broker (or "broker")</b>	: Includes any person engaged in the business of effecting transactions in securities for the account of others. :
<b>Financial services company:</b>	A legal person licensed under this Law to engage in the business of performing services as an investment trustee, an investment manager, a financial consultant, a financial broker ("broker"), a dealer, a manager of public issues ("underwriter") or a combination of these functions that is permitted under the provisions of this Law.
<b>Institutional investors</b>	Include pension funds, provident funds, investment companies, collective investments, banks, insurance companies, mutual funds, endowment funds and venture capital funds. :

<b>Investment company:</b>	For the purposes of this Law, the term “investment company” shall mean a legal person whose principal activity or intended activity is investing and trading in securities of other issuers, or one which owns or intends to own more than fifty percent of its total assets in the form of securities of other issuers. This does not include banks or insurance companies performing business as such. While all mutual funds are investment companies, not all investment companies are mutual funds.
<b>The Depository</b>	The company licensed by the Commission to practice depository activities
<b>Licensed person</b>	Means a person registered or licensed by the Jordan Securities Commission pursuant to any of the requirements of this Law.
<b>Manager of public issues:</b>	An underwriter.
<b>Mutual fund</b>	An organization created under, and operating in accordance with, the provisions of Chapter -- of this Law, and any rules, regulations or instructions thereunder, to invest in a portfolio of shares or other financial assets for the purposes of providing professional management of a collective investment on behalf of the interests of its shareholders.
<b>Public issuer:</b>	Means any issuer with an effective prospectus on file with the Commission pursuant to Article-- .
<b>Public investors:</b>	Persons who invest in financial assets who are neither licensed persons, professionals engaged in capital market activities nor institutional investors.
<b>Certified financial professional</b>	Includes every natural person, other than a dealer, who is employed, appointed or authorized by a dealer, issuer or broker to sell securities in any manner. The partners in a partnership and the executive officers of a corporation or other association registered as a dealer shall not be certified financial professionals within the meaning of this definition.
<b>Trading</b>	: Buying or selling securities

<b>Dealing</b>	: The registration, issuance, subscription, deposit, listing, trading, financing, dealing in, lending, borrowing, short selling or pledging of financial securities
<b>Issuer</b>	: Any person issuing or announcing the intention to issue securities
<b>Affiliate</b>	: A person who controls another person or is controlled by that other person, or who, together with that person is controlled by the same person.
<b>Control</b>	: The ability to influence effectively directly or indirectly the actions and decisions of another person
<b>Underwriter</b>	: A person who markets securities on behalf of an issuer or control person.
<b>Trading market in securities:</b>	Includes any organized stock exchange or periodic or continuous use of media of public communication to enable trading of securities or financial assets
<b>Security:</b>	<p>Includes the following:</p> <ol style="list-style-type: none"><li>1. A negotiable and transferable share, evidence of ownership interest, right to participate in earnings, evidence of debt, preorganization certificate or subscription, or any contract to purchase or sell any interest in the foregoing either now or in the future, issued by any limited partnership, limited liability company, limited partnership in shares or public share company;</li><li>2. Any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the rights and interests listed in paragraph 1;</li><li>3. Any other local or foreign securities that are commonly recognized as securities and considered as such by the Commission, subject to the provisions of the legislation in force.</li><li>4. The following shall not be deemed securities within the meaning of this definition: commercial papers such as cheques, bills of exchange, documentary credits, and transfers; instruments exclusively traded among banks; insurance policies and entitlements in pension funds which are financed by other than contributions of beneficiaries.</li></ol>



- Short Sale** : A transaction which the seller intends to settle by delivery of stock registered in the name of a third party.
- Relatives** : Spouse and children.

## *Chapter 2* *The Securities Commission*

### **Article 3. Establishment of the Jordan Securities Commission**

- (a) A Commission known as the “Securities Commission” shall be established in the Kingdom. . As a separate juridical person, the Commission is vested with administrative and financial independence, and, in its own name, has the right and power to own, lease and dispose of property, to enter into contracts, and to sue and be sued. Any property purchased, owned or leased, however, shall be related to the Commission's uses and performance of its duties. It shall also have its own seal.
- (b) The Commission shall report to the Prime Minister.
- (c) The Commission shall enjoy all the exemptions and privileges accorded to Ministries and Government departments and is exempted from all governmental taxes and duties, including customs duties, revenue stamps and the general sales tax. The Commission shall not engage in commercial activity, have a stake in any project, borrow or lend funds, or acquire, own or issue securities.
- (d) The Commission may be represented by the Attorney General or the General Civil Attorney or it may authorize any lawyer to act on its behalf. The Commission’s headquarters shall be in Amman.

### **Article 4. Commission role and function**

The role and function of the Securities Commission are

- (1) the protection of investors;
- (2) ensuring that markets are fair, efficient and transparent; and
- (3) the reduction of systemic risk.

### **Article 5. Composition of the Commission**

- A. The Securities Commission shall be comprised of five members who shall be Jordanian natural persons, shall serve on a full time basis, and shall be experts in securities.

- B. Subject to the provisions of Paragraph (c) of this Article, the Chairman, the Deputy Chairman and the other members of the Commission shall be appointed for a five year term, and the salaries and financial entitlements thereof shall be determined by a decision of the Council of Ministers, endorsed by a Royal Decree.
- C. The first Commission to be formed after the coming into force of this Law, shall have one member appointed for a one year term, another for a two year term, a third for a three year term, a fourth for a four-year term, and the Chairman shall be appointed for a five-year term.
- D. A Commissioner shall not practice any other profession or assume any other job, including occupying a ministerial post, being a member of Parliament, being employed by or occupying a post in a company, an enterprise, the Government, any official public institution, public enterprise or municipality. A Commissioner shall also not be someone in a position to influence the decisions of such entities, or who acts in a consultative capacity thereto.

#### **Article 6. Declaration of securities holdings**

Upon assuming duty, a Commission member shall declare in writing to the Commission any securities owned by the member, or at the member's disposal or at the disposal of any relatives thereof, as well as any shares or stocks in financial services companies owned by the member, or at the member's disposal or at the disposal of any relatives thereof. The member shall also declare in writing to the Commission any changes to the aforementioned within three days of the member's knowledge thereof.

#### **Article 7. Commission meetings and proceedings**

- A. Commission meetings quorum shall consist of four members. Commission decisions and recommendations shall be adopted by unanimity or a majority of three votes.
- B. The procedures and rules governing Commission meetings and the manner of calling such shall be stipulated in Regulations.

#### **Article 8. Chairman is chief executive**

The Chairman shall be the Commission's Chief Executive and financial officer, and shall be charged with implementing the Commission's policies and with the management of its affairs. This shall include:

- A. Implementing all Commission decisions;
- B. Signing contracts as authorized by the Commission;
- C. Signing, solely or jointly with others, the Commission's reports, financial statements and records, correspondence and documents.

**Article 9. Delegation of authority**

- A. The Chairman may delegate any of his authorities in accordance with the provisions of this Law or the Regulations issued pursuant thereto, provided the delegation is specific and is put in writing.
- B. The Deputy Chairman shall carry out the tasks and duties assigned thereto by the Chairman and shall assume the Chairman's authorities in the Chairman's absence, or if the Chairman's position becomes vacant.

**Article 10. Commission fees and charges**

- A. The Commission may charge fees for the following:
  - 1- The registration of securities with the Commission;
  - 2- The grantor renewal of any license authorized to be conferred by the Commission under the terms of this Law;
  - 3- The registration of investment companies and mutual funds.
- B. The maximum amounts for the fees set forth in Paragraph (a) of this Article shall be set by a regulation to be issued for this purpose.

**Article 11. Commission responsibilities and powers; rule-making power**

(a) In furtherance of its role and function, it shall be the responsibility of the Commission, and it hereby is vested with the power and authority necessary, to establish requirements, and procedures for confirming compliance with those requirements, --

- to assure that issuers of securities make complete and accurate disclosure of information material to investors in connection with public offerings of securities;
- for a system of periodic reporting by issuers of securities traded in the public securities trading markets in the Kingdom;
- for the licensing, registration and monitoring of professionals engaged in capital market activities;
- regarding the organization and conduct of public trading markets in securities; and
- for collective investments in which public investors participate.

(b) The Commission is authorized to issue such rules, regulations and instructions in furtherance of these responsibilities as it finds necessary and proper for the protection of investors and the development of the capital market..

(c) The Commission is further authorized and empowered to supervise compliance with the provisions of this Law and rules, regulations and instructions issued thereunder, and to impose sanctions for violations of those provisions, rules, regulations or instructions.

(d) Nothing in this Article shall be construed to narrow or limit the scope and nature of the power and authority vested in the Commission in any provisions of this Law specifically related to the enumeration above.

**Article 12. Inspection, investigation, surveillance and enforcement**

- a) The Commission or any officer designated by it may make such investigations as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of this Law or the rules, regulations or instructions thereunder.
- b) The Commission or any officer designated by it is authorized to inspect, and make copies of, the books and records of any licensed person within the meaning of this Law, either with or without prior notice; except any such inspection shall be conducted only during customary business hours.
- c) For the purpose of any investigation, or any other proceeding authorized under this Law, the Commission or any officer designated by it is authorized and empowered to compel the attendance of witnesses, take evidence under oath, and require the production of any books or records which the Commission deems relevant or material to the inquiry.
- d) The Commission is authorized, in its discretion, to investigate any facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of the provisions of this Law, in the prescribing of rules, regulations and instructions under this Law, or in securing information to serve as a basis for recommending further legislation related to the capital market.
- e) The Commission is authorized, in its discretion, to publish information concerning any violations of the provisions of this Law.
- f) For purposes of this Article, books and records shall include bank statements, correspondence, memoranda, documents, computer files and other written or electronic forms of information storage.
- g) At the request of a foreign securities commission or regulator, the Commission is authorized to support an investigation by that commission or regulator by providing information about licensed persons or their business or by carrying out an investigation itself.
- h) Any information to which Commission employees have access shall be deemed confidential. However, the Commission may disclose information it deems necessary for protecting investors.

**Article 13. Commission power to suspend dealings, public offers or operations**

The Commission, upon a determination of good cause therefor, is empowered to order the following:

- Suspension of dealings in any security for the period it deems appropriate;
- Cessation of a public offering of a new issuance of securities for the period it deems appropriate; or
- Cessation of continued business activity by a licensed person for the period it deems appropriate;

**Article 14. Commission power to proceed against violations or threatened violations**

- a) If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this Law, or any rule, regulation or instruction thereunder, the Commission may publish its findings and enter an order requiring such person to cease and desist from committing or causing such violation and any future violation of the same provision, rule, regulation or instruction.
- b) The notice instituting proceedings pursuant to this section shall fix a hearing date.
- c) The Commission may enter a temporary order to cease and desist pending a hearing whenever the Commission determines that an alleged violation or a threatened violation is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings. This paragraph shall apply only to a respondent that is, or, at the time of the alleged misconduct was, a licensed person.
- d) At any time after the respondent has been served with a temporary cease-and-desist order pursuant to this section, the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.
- e) Within--
  - (A) 10 days after the date the respondent was served with a temporary cease- and-desist order entered with a prior Commission hearing, or
  - (B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the court for an order setting aside, limiting, or suspending the effectiveness or enforcement of a Commission order, or temporary order, issued pursuant to this Article, and the court shall have jurisdiction to enter such an order.

**Article 15. Commission action after hearing**

If after proceeding in accordance with Article 14, the Commission finds that any person has breached, or taken preparatory measures to breach the provisions of this

Law, or any rules, regulations or instructions thereunder, the Commission may, where appropriate, take one of more of the following actions:

- (1) Order that person within a specified period of time to do one or more of the following:
  - (a) undo the breach;
  - (b) cease and desist from committing the breach;
- (2) Impose a monetary penalty under Article 16;
- (3) Order the cessation of the issuance or dealing of any securities of which that person is the issuer and to which the offence relates;
- (4) If that person is a licensed person, suspend or revoke his license;
- (5) Refer the breach to the criminal court.

**Article 16. Commission authority to assess money penalties**

- a) The Commission may impose a monetary penalty if it finds, on the record after notice and opportunity for hearing, that any person--

(1) has willfully violated any provision of this Law and that such willful violation has caused measurable, serious damage to public investors;

(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

(3) has willfully made or caused to be made in any application or report required by this Law to be filed with the Commission, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein;

and that such penalty is in the public interest.

- b) The maximum amount of penalty for each act or omission described in this Article shall be ----- for a natural person or ----- for any other person.

- c) In considering under this section whether a penalty is in the public interest, the Commission may consider--

(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

(2) the harm to other persons resulting either directly or indirectly from such act or omission;

(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

(4) the need to deter such person and other persons from committing such acts or omissions; and

(5) such other matters as justice may require.

- d) Any penalty imposed under this section may be reviewed in a court of competent jurisdiction. The court shall review the Commission action to determine whether it was arbitrary or without adequate justification based on the record compiled by the Commission in its proceeding.

**Article 17. Securities investors protection funds.**

- a) Under such rules, regulations and instructions as the Commission may from time to time prescribe or approve in the public interest, the Commission shall establish, or facilitate the establishment of, an insurance fund for the purpose of compensating investors for extraordinary losses or damage they may suffer as a result of business failure or fraud or mismanagement by capital market participants with whom they may entrust securities or cash in connection with transactions in securities.
- b) The Commission may, having due regard to the public interest or the protection of investors, regulate, supervise, examine, suspend or otherwise discontinue such funds under such rules, regulations and instructions which the Commission may promulgate, and which may include taking custody and management of the fund itself as well as investments in and disbursements from the funds under such forms of control and supervision by the Commission as it may from time to time require.
- c) The authority granted to the Commission under this Article shall apply to all funds established for the protection of investors, whether established by the Commission or otherwise.
- d) The Commission may impose transaction charges and fees on securities trades for the purpose of funding any insurance system established pursuant to this provision. The Commission, by rule or regulation, also may require contributions to the fund or funds from investors, exchanges, brokers, dealers, underwriters, transfer agents, salesmen and other persons transacting in securities based on the amounts of risk they create for the fund.

**Article 18. Notice of rule making**

- a) Prior to implementing any rule, regulation or instruction, or any amendment thereto, issued under this Law, the Commission shall publish notice of its intent prior to the proposed date of taking effect of such rule, regulation, instruction or amendment. The notice shall provide at least 30 days for the submission of written comments to the Commission.
- b) All persons shall have the right to submit written comments on any proposed rule, regulation or instruction, or any amendment thereto within the 30-day period provided herein. After due consideration to the comments submitted, the final version of the rule, regulation, instruction or amendment shall be published at least 20 days prior to its effective date.

The publication required under this Article may be on the Commission's website or otherwise, as the Commission may determine will be most appropriate for providing notice to interested parties.

**Article 19. Commission annual report**

The Commission shall submit to the Council of Ministers, within the first three months of the beginning of each fiscal year, a summary report on the Commission's activities during the preceding year and copies of the Commission's balance sheet, and revenue and expenditure account, certified by the auditor.

**Article 20. Response to Commission requests for documents and information**

- A. All persons, ministries and government departments and institutions shall respond to the Commission's requests and furnish the Commission with any documents and information it requires for the purposes of carrying out its duties and activities according to the provisions of this Law and the rules, regulations and instructions issued pursuant thereto.
- B. Failing to respond to the Commission's request during the set period, or deliberately delaying the response, or providing a response that indicates an intention to stall, or waste time constitutes a violation subject to criminal or disciplinary prosecution.



### *Chapter 3* *Disclosure*

#### **Article 21. No public offer without effective prospectus**

A. No person shall publicly offer securities for sale unless a prospectus shall (i) be filed with the Commission, together with such additional information as the Commission, through rules, regulations or instructions, shall require; and (ii) be declared effective by the Commission.

B. In all circumstance, the offer shall be made in one of the following ways:

- a. By means of the prospectus;
- b. By means of an advertisement containing a summary of the prospectus and any other information required or allowed by the Commission in accordance with the Instructions approved by the Commission;
- c. By means of a text attached to, or preceding the prospectus, provided the prospectus has come into effect.

C. No sale of securities that are part of a public offer shall be binding upon the buyer unless the buyer first has received a copy of the effective prospectus.

#### **Article 22. Public offer defined**

A. For the purposes of this Law, an offer shall be deemed to be a public offer if made to more than thirty persons for the sale of more than 5% of a class of securities of one issuer.

B. The Commission shall by rule provide that an offer shall not be deemed a public offer where, because of the following factors, the protection of public investors does not require that an effective prospectus need precede a sale of securities:

- the number of investors to whom the offer is made and the capacity of each to evaluate and to bear the investment risks involved;
- the limited amount of money being raised by the offer; or
- adequate and accurate disclosure is furnished to investors in accordance with rules prescribed by the Commission prescribing alternatives to the prospectus required by this Chapter.

#### **Article 23. Information in addition to the prospectus**

In addition to any other requirements the Commission may impose pursuant to Article --, the additional information to be filed together with the prospectus shall include the following:

- (1) a copy of any agreement or agreements made with the underwriter;
- (2) a copy of the opinion or opinions of counsel in respect to the legality of the issue, with a translation of such opinion, when necessary, into the ---- language;

- (3) a copy of all material contracts referred to in paragraph 21 of Article 25, but no disclosure shall be required of any portion of any such contract if the Commission determines that disclosure of such portion would impair the value of the contract and would not be necessary for the protection of the investors;
- (4) a) a copy of its articles of association, with all amendments thereof and of its existing memorandum of association or instruments corresponding thereto, whatever the name, if the issuer be a public shareholding company; (b) copies of all instruments by which the limited liability company is created or declared, if the issuer is a limited liability company; (c) a copy of its articles of partnership or association and all other papers pertaining to its organization, if the issuer is a partnership, unincorporated association, or any other form of organization; and a copy of the underlying agreements or indentures affecting any stock, bonds, or debentures offered or to be offered; and
- (5) copies of the issuer's agreements with an independent transfer agent and registrar for the subject securities.

#### **Article 24. Public issuer**

Any person who shall file a prospectus that has been declared effective in accordance with the provisions of this Law shall be deemed a "public issuer" for purposes of this Law.

#### **Article 25. Prospectus requirements**

- a) To qualify as a prospectus for purposes of this Law, a document must be in writing or in such electronic form as the Commission, by rule, regulation or instruction, may prescribe and shall contain ---
  - (1) The name under which the issuer is doing or intends to do business;
  - (2) the location of the issuer's principal business office, and if the issuer is a foreign person, the name and address of its agent in the Kingdom authorized to receive notice;
  - (3) the names and addresses of the directors or persons performing similar functions, and the chief executive, financial and accounting officers, chosen or to be chosen if the issuer be a public shareholding company, association, limited liability company, or other entity; of all partners, if the issuer be a partnership; and of the issuer, if the issuer be an individual; and of the promoters in the case of a business to be formed, or formed within two years prior to the filing of the prospectus;
  - (4) the names and addresses of the underwriters;
  - (5) the names and addresses of all persons, if any, owning of record or beneficially, if known, more than 10 per centum of any class of stock of the issuer, or more than 10 per centum in the aggregate of the outstanding stock of the issuer as of a date within twenty days prior to the filing of the prospectus;
  - (6) the general character of the business actually transacted or to be transacted by the issuer;
  - (7) a statement of the capitalization of the issuer, including the authorized and outstanding amounts of its capital stock and the proportion thereof paid up, the number and classes of

- shares in which such capital stock is divided, par value thereof, or if it has no par value, the stated or assigned value thereof, a description of the respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits, or capital of each class, with respect to each other class, including the retirement and liquidation rights or values thereof;
- (8) the amount of capital stock of each class issued or included in the shares of stock to be offered;
  - (9) if a bond, the amount of the funded debt outstanding and to be created by the security to be offered, with a brief description of the date, maturity, and character of such debt, rate of interest, character of amortization provisions, and the security, if any, therefor. If substitution of any security is permissible, a summarized statement of the conditions under which such substitution is permitted. If substitution is permissible without notice, a specific statement to that effect;
  - (10) the estimated net proceeds to be derived from the security to be offered;
  - (11) a detailed specification of the purposes and the approximate amounts to be devoted to each purpose, so far as determinable, for which the security to be offered is to supply funds, and if the funds are to be raised in part from other sources, the amounts thereof and the sources thereof, shall be stated;
  - (12) the remuneration, paid or estimated to be paid, by the issuer or its predecessor, directly or indirectly, during the past year and ensuing year to (a) the directors or persons performing similar functions, and (b) its officers and other persons, naming them wherever such remuneration exceeded JD---- during any such year;
  - (13) the price at which it is proposed that the security shall be offered to the public, and if any portion of such security is proposed to be offered to any persons or classes of persons (other than the underwriters) at a different price, the method by which such price is computed;
  - (14) all commissions or discounts paid or to be paid, directly or indirectly, by the issuer to the underwriters in respect of the sale of the security to be offered. Commissions shall include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings with or for the benefit of any other persons in which any underwriter is interested, made, in connection with the sale of such security;
  - (15) the amount, or estimated amounts, itemized in reasonable detail, of expenses, other than underwriter commissions, incurred or borne by or for the account of the issuer in connection with the sale of the security to be offered or properly chargeable thereto, including legal, engineering, certification, authentication, and other charges;
  - (16) the net proceeds derived from any security sold by the issuer during the two years preceding the filing of the prospectus, the price at which such security was offered to the public, and the names of the principal underwriters of such security;
  - (17) any amount paid within two years preceding the filing of the prospectus or intended to be paid to any promoter and the consideration for any such payment;

- (18) the names and addresses of the vendors and the purchase price of any property, or good will, acquired or to be acquired, not in the ordinary course of business, which is to be defrayed in whole or in part from the proceeds of the security to be offered, the amount of any commission payable to any person in connection with such acquisition, and the name or names of such person or persons, together with any expense incurred or to be incurred in connection with such acquisition, including the cost of borrowing money to finance such acquisition;
- (19) full particulars of the nature and extent of the interest, if any, of every director, principal executive officer, and of every stockholder holding more than 10 per centum of any class of stock or more than 10 per centum in the aggregate of the stock of the issuer, in any property acquired, not in the ordinary course of business of the issuer, within two years preceding the filing of the prospectus or proposed to be acquired at such date;
- (20) the names and addresses of counsel who have passed on the legality of the issue;
- (21) dates of and parties to, and the general effect concisely stated of every material contract made, not in the ordinary course of business, which contract is to be executed in whole or in part at or after the filing of the prospectus or which contract has been made not more than two years before such filing. Any management contract or contract providing for special bonuses or profit-sharing arrangements, and every material patent or contract for a material patent right, and every contract by or with a public utility company or an affiliate thereof, providing for the giving or receiving of technical or financial advice or service (if such contract may involve a charge to any party thereto at a rate in excess of JD---- per year in cash or securities or anything else of value), shall be deemed a material contract;
- (22) a balance sheet as of a date not more than ninety days prior to the date of the filing of the prospectus showing all of the assets of the issuer, the nature and cost thereof, whenever determinable, in such detail and in such form as the Commission shall prescribe (with intangible items segregated), including any loan in excess of JD ---- to any officer, director, stockholder or person directly or indirectly controlling or controlled by the issuer, or person under direct or indirect common control with the issuer. All the liabilities of the issuer in such detail and such form as the Commission shall prescribe, including surplus of the issuer showing how and from what sources such surplus was created, all as of a date not more than ninety days prior to the filing of the prospectus. If such statement be not certified by an independent public or certified accountant, in addition to the balance sheet required to be submitted under this Article, a similar detailed balance sheet of the assets and liabilities of the issuer, certified by an independent public or certified accountant, of a date not more than one year prior to the filing of the prospectus, shall be submitted;
- (23) a profit and loss statement of the issuer showing earnings and income, the nature and source thereof, and the expenses and fixed charges in such detail and such form as the Commission shall prescribe for the latest fiscal year for which such statement is available and for the two preceding fiscal years, year by year, or, if such issuer has been in actual business for less than three years, then for such time as the issuer has been in actual business, year by year. If the date of the filing of the prospectus is more than six months after

the close of the last fiscal year, a statement from such closing date to the latest practicable date. Such statement shall show what the practice of the issuer has been during the three years or lesser period as to the character of the charges, dividends or other distributions made against its various surplus accounts, and as to depreciation, depletion, and maintenance charges, in such detail and form as the Commission shall prescribe, and if stock dividends or avails from the sale of rights have been credited to income, they shall be shown separately with a statement of the basis upon which the credit is computed. Such statement shall also differentiate between any recurring and nonrecurring income and between any investment and operating income. Such statement shall be certified by an independent public or certified accountant;

- (24) if the proceeds, or any part of the proceeds, of the security to be issued is to be applied directly or indirectly to the purchase of any business, a profit and loss statement of such business certified by an independent public or certified accountant, meeting the requirements of paragraph --- of this Article, for the three preceding fiscal years, together with a balance sheet, similarly certified, of such business, meeting the requirements of paragraph --- of this Article of a date not more than ninety days prior to the filing of the prospectus or at the date such business was acquired by the issuer if the business was acquired by the issuer more than ninety days prior to the filing of the prospectus.

b) The Commission, by rule, regulation or instruction may require additional information to be included in a written document or electronic file in order to qualify as a prospectus for purposes of this Law.

#### **Article 26. Exemption from prospectus requirement**

The Commission may by rule provide for disclosure to be made by means other than the prospectus required in this Chapter where, consistent with the protection of public investors, a formal prospectus is not required because of:

- the limited number of investors to whom the offer is made and the capacity of each to evaluate and to bear the investment risks involved;
- the limited amount of money being raised by the offer.

#### **Article 27. Signatures required on prospectus**

To qualify as a prospectus for purposes of this Law, a document or electronic file must be signed by the chief executive officer, the chief financial officer, the chief operating officer and,

- if a public shareholding company, a majority of its board of directors;
- if a limited liability company, by a majority of the partners;
- if a partnership, by a majority of the general partners;
- if a newly organized company, by a majority of its promoters;
- an officer, director or partner of the underwriter; and
- an officer, director or partner of the auditing firm that certified the financial reports included in the prospectus.

For purposes of this provision, the Commission may prescribe a form of electronic signature that shall serve as equivalent to a writing.

**Article 28. Liability of prospectus signers**

Any person signing the prospectus shall be liable for any misstatements of material facts, or omissions of material facts, therein.

**Article 29. Form of prospectus to be prescribed by Commission**

- a) The Commission, by rule, regulation or instruction, shall prescribe a standard form of written or electronic prospectus to be submitted in fulfillment of the requirements of **Article 21**.
- b) The Commission, by rule, regulation or instruction, shall prescribe a standard form for the submission of the additional information to be submitted together with the prospectus in fulfillment of the requirements of **Article 21**. The standard form may be in writing or in electronic form.

**Article 30. Prospectus public upon filing**

- a) A prospectus filed with the Commission shall become public upon filing.
- b) The Commission shall provide for public access to prospectuses and other information filed pursuant to this Article.
- c) Upon petition by an issuer or underwriter, good cause therefor appearing, the Commission may order portions of the information filed together with the prospectus to be treated as confidential on the grounds that public disclosure would risk disclosing important business secrets. The Commission shall hold a hearing to decide the claims presented in the petition.

**Article 31. Effective date of prospectus**

The prospectus is deemed to be effective **thirty** days after its submission to the Commission, unless within this period the Commission declares the prospectus effective or disapproved. The Commission may specify the period during which the prospectus is considered effective.

**Article 32. Notification of changes**

The issuer shall inform the Commission in writing or electronically of any changes to the information in the prospectus as soon as they occur, whether or not the prospectus has been declared effective.

**Article 33. Commission declaration of effectiveness of prospectus**

- a) The Commission staff shall review prospectuses and the accompanying information filed pursuant to **Articles 21 & 23** to determine whether the filings satisfy the requirements of this Law and the rules, regulations and instructions

issued thereunder. For this purpose, the Commission may hold hearings for the purpose of evaluating the adequacy and accuracy of information provided.

- b) The Commission may deny effectiveness to a prospectus if it finds that--
- 1) The prospectus, or any of the accompanying information, does not conform to the requirements of this Law or the rules, regulations or instructions thereunder;
  - 2) The prospectus or any of the accompanying information contains false or misleading information, omits facts or information material to the making of an investment decision by public investors or presents information in a way that renders the information set forth therein, in the context in which it appears, false, misleading or inaccurate; or
  - 3) If the required fees have not been paid.

#### **Article 34. Periodic reports**

- a) Every public issuer and every issuer of securities traded on a licensed stock exchange (whether or not listed by the issuer) shall file with the Commission and publish the following periodic reports:
- an annual report, including financial statements certified by an independent auditor, within 90 days of the end of its fiscal year;
  - a semi-annual report 180 days after the annual report;
  - a report of the election of a board of directors or a change in the composition or identity of the board of directors, and
  - within 10 days of its occurrence, a report of any non-routine event likely to have material significance for the business and success of the issuer.
- b) The Commission, by rule, regulation or instruction, shall prescribe the form and content of the reports required under this Article and specify the persons required to sign the report. In prescribing the form of such reports, the Commission shall give due consideration to the feasibility of electronic filing.
- c) Publication of the reports specified in paragraph a) may be in a newspaper of general circulation in the Kingdom, by means of written or electronic mailings addressed to each security holder of record or by such other means as the Commission may by rule, regulation or instruction prescribe.

#### **Article 35. Registrar and transfer functions of a public issuer**

No prospectus shall be declared effective unless the issuer shall have provided for its transfer and registrar functions to be conducted by an independent transfer agent and an independent registrar and the agreements therefor are filed with the Commission.

This provision shall come into force and effect on and after \_\_\_\_\_.

#### **Article 36. Acquisitions of public issuer securities**

- A. No person shall publicly bid to purchase, or acquire by exchange, more than -- [20% ?] of a public issuer's securities unless a take-over statement shall be filed

with the Commission in a form that the Commission shall prescribe through rules, regulations or instructions.

- B. A public offer to purchase or exchange relating to any securities is deemed to be an offer to all owners of such securities.
- C. The person who makes a public offer to purchase or exchange shall pay any owner of securities that are subject of the offer, who offers to sell such securities, the highest price paid to any other seller of such securities, without discrimination.
- D. If the number of securities offered for sale or exchange by owners to the person who makes the public offer to purchase or exchange is higher than the number of securities that person intends or commits to buy or exchange, purchase or exchange shall be from all owners who offer to sell or exchange, in the proportion of the securities he has offered for sale or exchange to the securities demanded for purchase or exchange.

*Chapter 4*  
*Licensing, registration and monitoring*  
*of*  
*professionals engaged in capital market activities*

**Article 37. Requirements to be licensed**

a). Unless licensed by, or registered with, the Commission in accordance with its rules, regulations and instructions, no person may engage in the business of serving as a --

- financial services company
- investment trustee or custodian
- investment manager,
- financial consultant,
- financial broker or
- manager of primary issues or underwriter,

with respect to securities of a public issuer or of securities trading on a licensed stock exchange.

b). For purposes of this Article, the Commission may exempt one or more classes of securities of a public issuer where the public interest does not require professionals transacting in such securities to be licensed by the Commission.

**Article 38. Registration of certified financial professional**

a) No natural person shall engage in business in the Kingdom as a certified financial professional or sell, purchase or deal in any securities unless he has been registered as a certified financial professional pursuant to the provisions of this Chapter.



- (b) Upon the written application of a licensed dealer or broker, and upon a showing of good character and payment of the fee prescribed by the Commission, the Commission shall register as certified financial professional of such dealer or broker such natural person as the dealer or broker may request. Such registration shall terminate upon the termination of employment of such certified financial professional by such dealer or broker.

**Article 39. Licensing of financial services companies**

A licensed financial services company is authorized to conduct business as a broker, dealer, investment manager, investment trustee, custodian, financial consultant and manager of primary issues (underwriter) or any combination of these services.

**Article 40. Separation of functions**

No person shall at the same time serve both as an investment manager and as an investment trustee, or both as an investment manager and as a custodian, for the same account or for the same client.

**Article 41. Application for license as broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”)**

(a). An application for licensing as a broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”) shall be filed in writing with the Commission in such form as the Commission, by rule, regulation or instruction, may prescribe. The application shall be duly verified under oath, and shall state

- the principal office of the applicant, wherever situated and its principal office and all branch offices in the Kingdom, if any;
- the name or style of doing business;
- the corporate or business names;
- residences and business addresses of all persons interested in the business as principals, co-partners, officers and directors, specifying as to each his capacity and title; and
- the character of the business and the length of time the applicant has been engaged in said business; and
- evidence of adequate capacity, as prescribed by the Commission in rules, regulations or instructions, to conduct the business for which application is made, including financial capacity, adequate office facilities and staff and appropriate training.

(b). The Commission may also require such additional information, under oath, as to applicant's previous history, record and connection with other companies, as it may deem necessary to establish the good repute in business of the applicant.

(c). There shall be filed with such application an irrevocable written consent to the service of process upon the Commission in actions against such broker, dealer,

investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”) in the manner and form as provided by the Commission in rules, regulations or instructions.

(d). If the Commission finds that the applicant is of good repute and has complied with the provisions of this Act, including the payment of any fee required by the Commission, it shall license such applicant as a broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”).

(e). Every license under this Section shall expire on the thirty-first day of December in each year, but a new license for the succeeding year shall be issued upon written application and upon payment of the fee as hereinafter provided, without filing of further statements or furnishing any further information unless specifically required by the Commission. Applications for renewals must be made not less than thirty nor more than sixty days before the first day of the ensuing year, otherwise they shall be treated as original applications. The fee for such license and for each annual renewal shall be in such reasonable amount as may be determined by the Commission.

(f). Changes in a license occasioned by changes in the personnel of a partnership or in the principals, co-partners, officers or directors of any broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”) may be made from time to time by written application setting forth the facts with respect to such change.

#### **Article 42. Public record of licensees**

The names and addresses of all persons approved for licensing as broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”), or for registration as salesmen, and all orders with respect thereto, shall be recorded in a Register of Brokers, Dealers and Other Financial Intermediaries kept in the office of the Commission which shall be open to public inspection.

#### **Article 43. Revocation of license of a broker, dealer, certified financial professional, investment manager, financial consultant, financial services company, manager of primary issues (“underwriter”), investment trustee or custodian**

- a) A license or registration under this Law may be refused, or any license granted may be revoked, by the Commission if, after reasonable notice and hearing, the Commission determines that such applicant or registrant:
- (1) Has violated any provision of this Act or any rule, regulation or instruction hereunder; or
  - (2) Has made a material false statement in the application for license; or
  - (3) Has been guilty of a fraudulent act in connection with any sale of securities, or has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any such securities or has been or is engaged or is about

- to engage in any practice or sale of securities which is fraudulent or in violation of the law; or
- (4) Has demonstrated his unworthiness to transact the business of a broker, dealer, certified financial professional, investment manager, financial consultant, financial services company, manager of primary issues (“underwriter”), investment trustee or custodian.
- b) In cases of charges against a certified financial professional, notice thereof shall also be given the broker or dealer employing such certified financial professional.
- c) Pending the hearing, the Commission shall have the power to order the suspension of license or registration; Provided, that the order shall state the cause for such suspension.
- d) Until the entry of a final order, the suspension of a license, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it shall appear that the order of suspension has been violated after notice.
- e) The final order of the Commission refusing or revoking a license, together with its findings, shall be entered in the Register of Brokers, Dealers, Salesmen and Other Financial Intermediaries. The suspension or revocation of the license of a dealer or broker shall also automatically suspend or revoke the registration of all certified financial professionals in his employ.

#### **Article 44. Denial or cancellation of license**

It shall be sufficient cause for refusal or cancellation of license in case of a partnership or corporation, if any member of a partnership or any officer or director of the corporation has been guilty of any act or omission which would be cause for refusing or revoking the license of an individual broker, dealer, certified financial professional, investment manager, financial consultant, financial services company, manager of primary issues (“underwriter”), investment trustee or custodian.

#### **Article 45. Books and records of licensees**

- A. Every person licensed under the provisions of this Chapter shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, regulation or instruction may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Law.
- B. All records of persons described in this Article are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Law.

#### **Article 46. Duty of professionalism**

In carrying out their activities, licensed brokers, dealers, investment managers, financial consultants, financial services companies, managers of primary issues (“underwriter”), investment trustees or custodians, and employees thereof, shall perform their duties and abide by the rules of professional conduct to be issued for this purpose, such as acting with loyalty and dedication, in their clients best interests so as to realize their clients investment objectives. They also shall not discriminate between clients, charge them excessive commissions and fees, or guarantee or promise them definite amounts of profits, or otherwise act fraudulently or in deceit.

#### **Article 47. Liquidation of licensee**

The liquidation of any broker, dealer broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian or manager of primary issues (“underwriter”), company whether voluntary or involuntary shall be carried out under the Commissions’ monitoring and supervision. Provided, however, that this provision shall not apply to a bank licensed to carry on banking business in the Kingdom under the Banking Law.

#### **Article 48. Bond or financial security required**

Upon being licensed, a broker, dealer, investment manager, financial consultant, financial services company, investment trustee, custodian, manager of primary issues (“underwriter”), or for registration as a certified financial professional, the licensee or registrant shall file with the Commission a bond, or other security in lieu thereof, in such sum as may be fixed by the Commission which it may deem adequate for the protection of the public, running to the Government of the Kingdom, and conditioned upon the faithful compliance with the provisions of this Act by said licensee or registrant. Such bond shall be executed by a surety company authorized to do business in the Kingdom. In lieu of such bond, bonds of the Government of the Kingdom may be deposited with the Commission. If a bond is filed, or bonds deposited, any person damaged by the failure of such licensee or registered certified financial professional, to comply with the provisions of this Act, shall be entitled to sue the sureties under such bond and to recover the damages so suffered thereunder. If Government bonds have been deposited, such person may subject such bonds to the payment of the damage .

#### **Article 49. Segregation of customer accounts**

- A. Except where expressly provided to the contrary by the Commission through rules, regulations or instructions, money or assets held by a licensee on behalf of investors shall be considered to belong to the investors and shall not be available to distribute to the creditors of the licensee in the event of the licensee’s insolvency or default. This shall apply without regard to the name in which the account is opened or maintained or in which the securities are held.
- B. The Commission, by rule, regulation or instruction, may prescribe the method of naming accounts and the requirements for the segregation and safekeeping of client money and assets.

#### **Article 50. Certified Financial Professional Association**

- A. Certified financial professionals may form their own professional association to be known as “Certified Financial Professionals’ Association.” Upon approval of its licensing by the Commission and registration therewith, the Association shall have a separate juridical personality, and may, in this capacity, carry on its activities, pursue its objectives, protect the interests of its members, promote interaction between members, and raise awareness about standards of professional conduct.
- B. The following shall be set forth in the Association’s By-laws and Articles of Association: the rules and procedures governing the Association’s establishment, the contributions of its members, all other matters relating to the Association, the manner of its management, dissolution, and disposing of its property; the formation of the Association’s General Assembly and the Board of Directors and their respective duties, and the manner of convening their meetings; and the Association’s financial and administrative matters, including the subscription and annual membership fees therein.

## *Chapter 5* *Trading Markets*

### **Article 51. Creation of Amman Stock Exchange**

- A. A Stock Exchange to be known as the Amman Stock Exchange shall be established in the Kingdom, and shall have a separate juridical personality with administrative and financial independence. As such, it may carry out all legal acts including concluding contracts and acquiring and disposing of movable and immovable property, and authorizing a lawyer to act on its behalf in legal proceedings.
- B. The Stock Exchange hereby established is authorized to reorganize, restructure, reconstitute, dissolve or take any other action necessary in order that it may organize itself in a form of its choice.

### **Article 52. Trading only on a licensed stock exchange**

It shall be unlawful for any licensed broker or dealer to effect any transaction in a security of a public issuer, or to report any such transaction, except on a licensed stock exchange unless such security or exchange specifically is exempt from this limitation by the Commission.

### **Article 53. License; application**

- (a). An exchange may be licensed as a securities exchange under the terms and conditions hereinafter provided in this Article by filing with the Commission an application for license in such form as the Commission, by rule, may prescribe containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(b) . An exchange shall not be licensed as a securities exchange unless the Commission determines that -

(1) Such exchange is so organized and has the capacity to be able to carry out the purposes of this Law and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of this Law, the rules, regulations and instructions thereunder, and the rules of the exchange.

(2) The rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

(3) The rules of the exchange are designed to prevent fraudulent and manipulative acts and practices, to promote fair and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this Law matters not related to the purposes of this Law or the administration of the exchange.

(4) The rules of the exchange provide that its members and persons associated with its members shall be appropriately disciplined for violation of the provisions of this Law, the rules, regulations and instructions thereunder, or the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

(5) The rules of the exchange provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof.

(6) The rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of this Law.

(7) The rules of the exchange establish standards of training, experience, and competence, of financial responsibility and of operational capability for its members and persons associated with such members.

(8) The rules of the exchange establish standards and procedures for disciplinary action in the case of members who do not meet the exchange standards of training, experience, and competence, of financial responsibility and of operational capability.

#### **Article 54. Bases for exchange to bar or restrict membership**

a) A licensed securities exchange may bar a natural person from becoming a member or associated with a member, or condition the membership of a natural person or association of a natural person with a member, if such natural person (i) does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange or (ii) has engaged and there is a reasonable likelihood he may again engage in acts or practices inconsistent with just and equitable principles of trade.

- b) A licensed securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange and require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.
- c) A licensed securities exchange may bar any person from becoming associated with a member if such person does not agree (i) to supply the exchange with such information with respect to its relationship and dealings with the member as may be specified in the rules of the exchange and (ii) to permit the examination of its books and records to verify the accuracy of any information so supplied.
- d) A licensed securities exchange may limit (A) the number of members of the exchange and (B) the number of members and designated representatives of members permitted to effect transactions on the floor of the exchange without the services of another person acting as broker.
- e) In any proceeding (other than a summary proceeding) by a licensed securities exchange to determine whether a member or person associated with a member should be disciplined, the exchange shall bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record. A determination by the exchange to impose a disciplinary sanction shall be supported by a statement setting forth -
  - (A) any act or practice in which such member or person associated with a member has been found to have engaged, or which such member or person has been found to have omitted;
  - (B) the specific provision of this Law, the rules, regulations or instructions thereunder, or the rules of the exchange which any such act or practice, or omission to act, is deemed to violate; and
  - (C) the sanction imposed and the reasons therefor.
- f) In any proceeding by a licensed securities exchange to determine whether a person shall be denied membership, barred from becoming associated with a member, or prohibited or limited with respect to access to services offered by the exchange or a member thereof (other than a summary proceeding) the exchange shall notify such person of, and provide an opportunity for him to be heard upon, the specific grounds for denial, bar, or prohibition or limitation under consideration and keep a record. A determination by the exchange to deny membership, bar a person from becoming associated with a member, or prohibit or limit a person with respect to access to services offered by the exchange or a member thereof shall be supported by a statement setting forth the specific grounds on which the denial, bar, or prohibition or limitation is based.
- g) Notwithstanding the foregoing provisions of this Article, a licensed securities exchange may summarily suspend, or limit or prohibit access to services offered by the exchange, a member who is in such financial or operating difficulty that the exchange determines and so notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the exchange.

**Article 55. Requirement for issuer registrar and transfer functions**

No stock exchange shall be licensed under this Law unless its rules prohibit trading of any securities whose issuer has not provided for its transfer and registrar functions to be conducted by an independent transfer agent and an independent registrar. The Commission, by order or rule, may postpone the coming into effect of this requirement.

**Chapter 6**  
***The Securities Depository Center***

**Article 56. Creation of the Securities Depository Center**

A. A center to be known as the “Securities Depository Center” shall be established in the Kingdom for the registration and transfer of ownership of securities traded on the stock exchange and for price settlement of such among financial brokers.

B. The Center shall be the only entity authorized to carry out such activities in the Kingdom. It shall be a separate juridical entity with administrative and financial independence. As such, it may carry out all legal acts, including concluding contracts, acquiring and disposing of movable and immovable property, and appointing a lawyer to act on its behalf in legal proceedings.

C. The Center’s objective shall be the safekeeping of securities traded on the stock exchange and the orderly clearing and settlement of transactions.

**Article 57. Role of the Center**

A. Registration and transfer of ownership of securities traded on the stock exchange and the price settlements of such securities between financial brokers shall be by means of entries in the Center’s records.

B. Unless otherwise proven, the entry records and the accounts maintained by the Center, whether manually or electronically, as well as any document issued by the Center shall constitute *prima facie* legal evidence of ownership, registration, and transfer of ownership of the securities mentioned therein and of the price settlements of such securities between financial brokers, on the date of the records, accounts or documents.

C. Subject to its duties as set out in its by-laws, rules and regulations, the Center may accept electronic instructions from agents of persons who are registered holders of shares or of persons who are seeking registration or conversion of holdings from physical securities to electronic or dematerialized form. The liability of the Center in the case of an instruction received in error or as a result of fraud may be limited, as defined in the Center by-laws.

D. Securities registered at the Center may be registered in the name of the ultimate owner of the securities or in the name of a person acting as custodian. The Center’s by-laws shall define the powers of the Center to investigate, require disclosure, and record the identify and other details, of the beneficial (or ultimate) owner or any agent or other person acting directly or indirectly for the account or benefit of the beneficial (ultimate) owner. The by-laws may require the agent to



register the securities in such a manner as to make clear that the securities are not owned by the agent. The Center shall not be considered as owners of any securities by accepting any registration or deposit, and the securities shall not be taken into account in calculating the Center's financial position, nor used for the purpose of correcting any financial deficit, or in the bankruptcy, of the Center.

**Article 58. Center organization**

(a) Subject to approval by the Commission, the Center shall determine its membership, fee structure, organizational form and lines of business; provided, however, that the Center shall not engage in any business involving brokerage, advising with respect to securities or financial intermediation.

(b) No person shall combine the membership of the Center's Board of Directors and the stock exchange's Board of Directors.

**Article 59. Commission oversight**

The Center's By-laws and Instructions shall be subject to approval by the Commission and shall include provision for the following:

(a) Registration and transfer of ownership of securities, and price settlements of securities traded in the stock exchange;

(b) Information, data, and records that are considered confidential and the persons authorized to have access thereto, by virtue of their job;

(c) Information, data and records that the Center must disclose and the information, data and records that are accessible to the public for viewing and copying;

(d) Standards of professional conduct applicable to the members of the Center and members of the Board of Directors, and to the Executive Officer and the Center's employees;

(e) Safeguards for investor securities and funds and protection against unrelated claims by third parties against such securities and funds;

(f) Suitable guaranties for payments and deliveries by participants; and

(g) Backup of data and protections against disruptions or discontinuity of service.

**Article 60. Fees and commissions**

Subject to approval by the Commission, the Center is authorized to require, and to fix the amounts of, members' subscription and annual fees and commissions and fees for its services.

## *Chapter 7*

### *Collective Investment Schemes*

#### **Article 61. Legal authority for creation of mutual funds**

a). This Law authorizes the formation of a new form of business enterprise known as a "mutual fund" which shall qualify as a legal person within the meaning of Section 50 of the Jordan Civil Code. A mutual fund shall be organized pursuant to, and shall operate in accordance with, the provisions of this Chapter and the rules, regulations and instructions thereunder.

b). The purpose of a mutual fund is to invest in a portfolio of securities or other financial assets for the purposes of providing professional management of a collective investment on behalf of the interests of its shareholders. A mutual fund shall, in its own name and capacity, have the right to own and dispose of property, conclude contracts, and sue or be sued.

#### **Article 62. Requirement for licensing; Commission power to exempt**

1. No person shall offer interests in any arrangement whereby the interests of participants are pooled for the purpose of investing in financial assets, profits are shared and the day-to-day management of the arrangement is centralized unless

- a. It is organized as a mutual fund under this Chapter; or
- b. It is licensed by the Commission as an investment company or collective investment pool.

2. The Commission shall have the authority, by rule, regulation or instruction or order, to provide exemptions to this requirement or to compliance with specific requirements of this Chapter applicable to mutual funds, investment companies and collective investment pools. Any rule or order issued hereunder shall be published and made public. By rule, regulation or instruction, the Commission shall establish procedures to apply for specific exemption pursuant to this provision.

3. Without limiting the generality of paragraph 2 of this Article, the Commission, by rule, regulation or instruction shall provide exemptions under this Chapter for the following:

- banks licensed under the Banking Law,
- insurance companies, venture capital companies with fewer than    investors, or
- any collective investment pool or fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian.

#### **Article 63. Types of mutual funds**

A mutual fund may be organized either as an "open-end" investment scheme or as a "closed-end" investment scheme. This Chapter shall constitute the legislative basis

for the organization of such a mutual fund, whereby it shall qualify in all respects as a legal person within the meaning of Section 50 of the Jordan Civil Code. Without limiting the generality of the foregoing, a mutual fund organized under this Chapter shall have the capacity to contract in its own name, to sue and be sued, to issue securities in its own name and to do anything else a legal person within the meaning of Section 50 of the Jordan Civil Code may do.

#### **Article 64. Open-end funds**

An open-end fund shall have the authority to continuously issue and repurchase its shares, and the shares it issues shall not be transferable except through inheritance or succession. The price at which it issues and repurchases its shares shall be based on the pro rata portion of the net asset value of the fund as at the time of such issue or repurchase.

#### **Article 65. Closed-end funds**

A closed-end fund shall be organized on the basis of a stated capital, and its shares shall be as freely transferable as the shares of a public limited company organized under the laws of Jordan. The shares of a closed-end fund may be issued either by public offering or by private placement and may be listed on the stock exchange.

#### **Article 66. Capital of open-end fund**

A. The board of directors alone, without the need to obtain the approval of the shareholders, shall have the right to increase or decrease the authorized capital of an open-end mutual fund.

B. The shares of an open-end fund may be issued or redeemed only at the price calculated on the basis of its net assets, in accordance with principles and procedures prescribed by the Commission.

#### **Article 67. Shareholders**

A. A mutual fund shall be organized and managed for the benefit of its shareholders. The fund's capital shall be divided into investment units with equal entitlements. Owners of such units shall be liable only in the amount of their shares in the fund's capital. Payments for the investment units shall be in cash in one installment upon subscription.

B. A shareholder of an open-end mutual fund may request the company to redeem his shares at a price representing the net value of the shares calculated on the date of redemption less the value of any applicable fees or commissions, calculated in accordance with principles and procedures prescribed by the Commission.

#### **Article 68. Fund management**

A mutual fund shall have a board of directors, no more than -- % of whom shall be affiliated with an investment manager. The board of directors shall be responsible for retaining and supervising an "investment manager" to conduct the day-to-day management of the fund portfolio. The fund directors shall be elected by the fund shareholders at an annual meeting, at which each fund share shall be entitled to one vote.

#### **Article 69. Fund assets**

- A. The capital of a mutual fund shall be divided into investment units with equal entitlements.
- B. Assets of a mutual fund or other licensed collective investment pool may not be attached to secure or collect any debt assumed by any owner of its investment units.
- C. The principles and criteria for diversification of the investments of mutual funds and the acceptable types of dealings shall be specified in rules, regulations or instructions to be issued by the Commission.

#### **Article 70. Prohibited transactions**

- A.. Subject to the provisions of paragraph (b) of this Article, no mutual fund or registered investment company may undertake any of the following:
- a. Borrow in the amount equal to or greater than 10% of the value of its net assets;
  - b. Invest more than 5% of its assets in the securities of the same issuer, except for securities issued by the Government or the Central Bank of Jordan, or guaranteed by either;
  - c. Hold more than 10% of the securities issued by one issuer;
  - d. Invest more than 10% of its assets in securities issued by other investment companies or mutual funds;
  - e. Invest in the securities issued by the fund's investment manager or any companies affiliated therewith.
- B. The Commission, upon application by a mutual fund or registered investment company, may allow an investment company to exceed the limits stipulated in paragraph (a) if it determines that the investors' interests are adequately protected and that compliance with the stipulated limits would be difficult or impractical.

#### **Article 71. Investment management**

- A. A mutual fund's investments shall be managed by a licensed investment manager. The fund and the manager shall enter into a management contract for this purpose, and management contracts shall conform to rules, regulations or instructions promulgated by the Commission pursuant to this Law.
- B. Management contracts shall be limited to a term of one year, renewable annually, and subject to approval of the fund shareholders. The full text of the contract between the fund and the investment manager shall be published and provided to each shareholder by mail prior to execution by the fund.

The fund's investment manager shall not have a direct or indirect beneficial investment interest in any transaction he conducts for the fund. No person shall hold jointly any position with the investment manager and the custodian for the fund.

## **Article 72. Duties and responsibilities of investment manager**

The investment manager shall have the following duties and responsibilities:

- a. preparation and filing of fund prospectus
- b. registration of fund shares with the Commission
- c. management of fund investments in accordance with the fund's stated investment policy
- d. promotion and marketing of fund shares
- e. administration of fund share transactions

## **Article 73. Conflicts of interest**

### **A. Prohibited relationships**

In addition to the prohibitions set forth in **Article 72** with respect to investment managers, no licensed investment company shall have a board of directors comprised of more than 60 per cent of persons who are interested persons of such licensed company. For purposes of this Article, “interested persons” shall include any person or partner or employee of any investment manager, broker, dealer, underwriter, custodian, financial consultant or legal counsel for such licensed company.

### **B. Prohibited transactions**

It shall be unlawful for any promoter, investment manager of, custodian or underwriter for, a licensed investment company, or any affiliated person of such promoter, investment manager of, custodian or underwriter for, a licensed investment company --

(1) knowingly to sell any security or other property to such licensed company or to any company controlled by such licensed company, unless such sale involves solely (A) securities of which the buyer is the issuer, or (B) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities;

(2) knowingly to purchase from such licensed company, or from any company controlled by such licensed company, any security or other property (except securities of which the seller is the issuer); or

(3) to borrow money or other property from such licensed company.

### **C. Commission rules, regulations or instructions prohibiting fraudulent, deceptive or manipulative courses of conduct**

It shall be unlawful for any promoter, investment manager of, custodian or underwriter for, a licensed investment company, or any affiliated person or employee of such promoter, investment manager of, custodian or underwriter for, a licensed investment company to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such licensed investment company in contravention of such rules, regulations or instructions as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive or manipulative.

#### **Article 74. Custody and maintenance of securities and investments**

A. Every licensed investment company shall place and maintain its securities and similar investments in the custody of a licensed investment trustee or custodian, subject to such rules and regulations as the Commission may from time to time prescribe for the protection of investors. Subject to such rules, regulations, and orders as the Commission may adopt as necessary or appropriate for the protection of investors, a licensed investment company or any such investment trustee or custodian, with the consent of the licensed investment company for which it acts as custodian, may deposit all or any part of the securities owned by such licensed investment company in a system for the central handling of securities established by a licensed depository or such other person as may be permitted by the Commission, pursuant to which system all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery of such securities. Rules, regulations, and orders of the Commission under this subsection, among other things, may make appropriate provision with respect to such matters as the earmarking, segregation, and hypothecation of such securities and investments, and may provide for or require periodic or other inspections by any or all of the following: Independent public accountants, employees and agents of the Commission, and such other persons as the Commission may designate.

B. If a licensed investment company maintains its securities and similar investments in the custody of a qualified bank or banks, the cash proceeds from the sale of such securities and similar investments and other cash assets of the company shall likewise be kept in the custody of such a bank or banks. Notwithstanding this provision, the Commission may by rule or order permit a licensed investment company to maintain a checking account in a bank or banks having qualifications prescribed by the Commission in rules, regulations or instructions; provided that the balance of such account or the aggregate balances of such accounts at no time shall be in excess of the amount of a fidelity bond maintained to cover the officers or employees authorized to draw on such account or accounts.

### ***Chapter 8*** ***Violations and Penalties***

#### **Article 75. Private remedies**

A. If securities are sold in violation of the provisions of this Law, any investor who suffers financial damage may recover the amount of such damage in an action in any court of civil jurisdiction in the Kingdom.

- If the violation of Law constitutes a sale without an effective prospectus, the injured investor may recover from the seller of the security upon a showing (i) that no prospectus covering the securities had been declared effective by the Commission, and (ii) the investor suffered financial loss as a result of the purchase of the securities.
- If the violation of Law constitutes a failure to make adequate and accurate disclosure in a prospectus or report required by this Law to be filed with the

Commission, the investor may recover from any person who signed the prospectus or report upon a showing that:

- the prospectus or report omitted facts material to an investor in the decision to buy, sell or continue to hold the security; or
- the prospectus or report set forth a false or misleading statement of facts material to an investor in the decision to buy, sell or continue to hold the security.

B. An action pursuant to this Article shall be instituted no later than three years following the date of (i) the sale, in the case of a sale without an effective prospectus, (ii) the effective date of the prospectus or (iii) the date of filing of the report.

C. In addition to damages, an investor who prevails in an action brought pursuant to this Article shall be entitled to an award to reimburse for attorneys fees and costs incurred in the litigation.

**Article 76.**

- A. For the purposes of this Law, the term “insider information” shall mean information which is not proclaimed and which may affect the price of any security in the event of being proclaimed. Insider information shall not include conclusions based upon financial and economic studies, research and analyses.
- B. For the purposes of this Law, an insider shall mean a person who has access to insider information by virtue of his position or job.

**Article 77.**

- A. Insiders, including members of the Board of Directors of each the Stock Exchange and the Center, as well as their Executive Managers and employees, shall not use any insider or confidential information to attain material or moral gains whether for their own or for others, and may not divulge any such information to any person other than their respective competent authority or the courts.
- B. Any person who is not an insider but who hears or learns about insider information, and is aware that its source is an insider, shall not exploit such information to attain material or moral gains for his own or for others. Such a person shall also not divulge such information to any other person, except in accordance with the provisions of this Law or any other legislation.
- C. No person shall in any way spread or circulate rumors or give misleading or false information, statements or data that may affect the price of any securities or the reputation of any issuer.
- D. No person shall deal in securities, either solely or in collusion with other persons, with the aim of :
  - (1) giving the public false impression of real dealings in such securities and prompting the public to deal therein;
  - (2) affecting the prices of any securities directly or by affecting the prices of other related securities;
  - (3) adversely affecting the capital market in any manner.

**Article 78.**

- A. A person found to be violating or taking steps to violate the provisions of this Law or any of the Regulations and Instructions issued pursuant thereto-and after being notified by the Commission, and given opportunity to be heard- may be requested

by the Commission to rectify the violation and the circumstances resulting therefrom, or to desist from committing the violations, or from taking the steps leading thereto, within a specified period of time. In the case of noncompliance, the Commission may have recourse to one or more of the following measures:

- 1- Suspend any prospectus submitted to the Commission or cease issuance of the securities concerned or dealings therein;
  - 2- Suspend all activities related to securities, or to a particular security for the period of time the Commission deems appropriate;
  - 3- Revoke or suspend the license for the period of time the Commission deems appropriate.
- B. In case of non-compliance with any of the matters set out in paragraph (a) of this Article, the person concerned shall be referred to the competent court.
- C. The court shall look into the cases referred thereto expeditiously, and may issue a temporary injunction for taking any of the measures cited in Paragraph (a) of this Article until the trial is concluded.

**Article 79.**

- A. Any person who violates the provisions of this Law or any of the Regulations and Instructions issued pursuant thereto shall be subject to a fine of not more than twenty thousand (20000) Jordanian Dinars, in addition to a fine of not less than twice the amount, and not more than five times the amount of profit made or loss avoided by the person who commits the violation.
- B. In addition to the fines specified in Paragraph (a) of this Article, and without prejudice to stricter penalties imposed by any other legislation, any person committing a violation shall be subject to any of the following penalties:
- 1- Imprisonment of up to three years for violations of the provisions of Article (68) of this Law;
  - 2- Imprisonment of up to one year for violations of the provisions of Articles (35b), (36b) and (45c) of this Law.
- C. The court may exempt from the prison penalty first offenders and offenders who deposit in court or with the Commission sufficient funds to cover all fines and compensation which may be ordered by the court, provided the funds are paid before the court decision becomes final.
- D. Accomplices, accessories and instigators shall be subject to the same penalties as primary offenders.
- E. If the offender is a juridical person, then members of the Boards of Directors, managers, general partners, and concerned employees thereof shall be deemed liable for any violation, unless it is established that those had no knowledge of the violation.
- F. A person who violates intentionally, or as a result of gross negligence or of failing to exercise due care, the provisions of this Law shall be held liable for damages incurred by other persons in the amount of loss incurred or profits foregone.
- G. The provisions of this Article shall not apply to violations committed prior to the coming into force of this Law except for compensation orders and provisional measures.

**Article 80.**



- A. The court may attach the assets of any person under trial in order to secure payment of any fines or compensation which may be ordered by the court, and may appoint a custodian over such assets.
- B. The court may suspend or rescind any purchase, sale or issuance in violation of the provisions of this Law and Regulations or Instructions issued pursuant thereto, or any other legislation.

**Article 81.**

- A. Civil and Criminal Securities cases instituted pursuant to the provisions of this Law shall be handled by the competent courts expeditiously, including the enforcement of court decisions.
- B. Notification procedures in court cases involving securities shall be carried out pursuant to the Civil Procedures Law. However, notification of persons whose place of residence or business is outside the Kingdom, shall be either at the address of choice thereof within the Kingdom, if any, or by advertising the notification in at least one local daily newspaper, and sending a copy of the notice voucher by registered, courier or first class mail to the address outside the Kingdom, filed at the Commission. In the latter case, the notification date shall be the seventh day from the date of depositing the notification voucher with the mail.
- C. Notwithstanding the provisions of any other legislation, all means of proof shall be admitted as evidence in securities cases, including electronic or computer data, telephone recordings, and telex and facsimile messages.

**Chapter 9**  
**Interim and Final Provisions**

**Article 82.**

- A. The Commission shall be appointed within two months from the publication of this Law in the Official Gazette. Upon appointment thereof, the Commission and the Chairman shall exercise the authorities granted thereto by this Law and shall enforce its interim provisions. The Commission may issue any Instructions and decisions necessary for this purposes and draft Regulations in preparation for their issuance.
- B. Subject to the provisions of Paragraph (a) of this Article, only the interim provisions of this Chapter shall come into force as of the date of this Law's publication in the Official Gazette. The other provisions of this Law shall come into force pursuant to decisions issued by the Council of Ministers, upon the Commission's recommendations, provided this is done within two years of the date of publication of this Law in the Official Gazette.
- C. The Commission may issue the Instructions necessary to implement the provisions of this Law, until the issuance of Regulations necessary for its implementation.
- D. Upon appointment, the Commission shall work towards establishing the Bourse and the Center in cooperation with their respective members, provided this task is completed within the period specified in Paragraph (b) of this Article.
- E. The management committee of the Amman Financial Market, provided for in the Amman Financial Market Law No. (1) for the year 1990 and amendments thereof, shall be dissolved, *ipso jure*, upon appointment of the Commission.

- F. Subject to the provisions of Paragraphs (a), (b) and (c) of this Article, the Commission and the Chairman shall assume all the powers of the management committee and the Director General of the Amman Financial Market provided for in the Amman Financial Market Law No. (1) for the year 1990 and amendments thereof and the Regulations and Instructions issued pursuant thereto, until repeal of the said Law.
- G. Members of the Bourse and the Center shall cooperate with the Commission to ensure the enforcement of the interim provisions of this Law, and shall comply with all the Instructions and decisions issued by the Commission in this regard, including those providing for payment of financial obligations.

**Article 83.**

All Persons practicing any of the activities of financial services companies specified in this Law, including financial brokerage companies licensed pursuant to the Amman Financial Market Law and amendments thereof, shall make the necessary adjustments so as to comply with the licensing conditions set forth in the Instructions issued for this purpose by the Commission, and within the time period specified thereby.

**Article 84.**

Securities listed on the Amman Financial Market in accordance with the Amman Financial Market Law, the amendment thereof and Regulations and Instructions issued pursuant thereto shall be considered, *ipso jure*, as listed in the Stock Exchange upon establishment thereof.

**Article 85.**

All issuers of listed securities shall submit to the Center upon establishment thereof, or to account holders thereat, a register of owners of securities issued by them, and any data related to such registers and owners of securities entered therein, in accordance with Instructions issued by the Commission for this purpose.

**Article 86.**

- A. The Amman Financial Market Law No. (1) for the year 1990 and amendments thereof shall be repealed upon completion of the procedures specified in Article (73) of this Law.
- B. All Regulations, Instructions and decisions issued in accordance with the Amman Financial Market Law and amendments thereof shall remain in force until repealed or replaced.

**Article 87.**

The Commission shall be the legal and factual successor to the Amman Financial Market. All rights, liabilities, assets, records, and movable and immovable property thereof shall devolve to the Commission and all employees of the Amman Financial Market shall become employees of the Commission, with all rights thereof.

**Article 88.**

Prospectuses of securities, registration thereof, trading therein and any transactions related thereto shall be exempt from stamp duties, notwithstanding the provisions of the Stamp Duties Law in force.

**Article 89.**

The provisions of any other legislation that are in conflict with the provisions of this Law or of the Regulations and Instructions issued pursuant thereto shall be repealed.

**Article 90.**

The Council of Ministers may issue the Regulations necessary for implementing the provisions of this Law.

**Article 91.**

The Prime Minister and Ministers are entrusted to implement the provisions of this Law.

## **APPENDIX B**

This Appendix includes the redline versions of the Disclosure, Licensing and Mutual Fund Instructions and the Fee regulation to show the changes recommended to conform these Instructions and the Regulation to the provisions of the proposed revised Securities Law set forth in Appendix A.

### **PART I Redline version of Disclosure Instruction**

**Draft revised instructions to conform to proposed changes in the securities law**

**February 2001**

**Disclosure and Accounting and Auditing Standards and the Conditions to be Fulfilled in Auditors of the Entities Subject to the Commission's Monitoring Instructions No. () for the Year**

**Issued by the Commissioners of the Securities Commission pursuant to Articles of the Securities Law**

No. () for the Year

**Article (1)** These Instructions shall be known as the . . . .

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## **A-1.Chapter One**

### **Disclosure**

**Article (3)** Disclosure upon public offering

A. Unless exempt, no person shall offer more than 5% of a class of its securities for sale to more than thirty persons unless a prospectus meeting the requirements of Article 25, together with the additional information specified in subparagraph B, has been be filed with, and declared effective by, the Commission.

B. The additional information to be filed together with the prospectus shall include the following:

- (6) a copy of any agreement or agreements made with the underwriter;
- (7) a copy of the opinion or opinions of counsel in respect to the legality of the issue, with a translation of such opinion, when necessary, into the ---- language;
- (8) a copy of all material contracts referred to in paragraph 21 of Article 25, but no disclosure shall be required of any portion of any such contract if the Commission determines that disclosure of such portion would impair the value of the contract and would not be necessary for the protection of the investors;
- (9) a) a copy of its articles of association, with all amendments thereof and of its existing memorandum of association or instruments corresponding thereto, whatever the name, if the issuer be a public shareholding company; (b) copies of all instruments by which the limited liability company is created or declared, if the issuer is a limited liability company; (c) a copy of its articles of partnership or association and all other papers pertaining to its organization, if the issuer is a partnership, unincorporated association, or any other form of organization; and a copy of the underlying agreements or indentures affecting any stock, bonds, or debentures offered or to be offered; and  
copies of the issuer's agreements with an independent transfer agent and registrar for the subject securities.

#### **Article ( ) Exemption**

For purposes of Article 21, an offer shall not be considered a public offering if all of the following conditions apply:

1. The offer is made to no more than 75 investors;
2. All the offerees are institutional investors;
3. No more than JD \*\*\* is being raised through the offer; and
4. The offerees are furnished with a writing including all of the information that would be included in a prospectus meeting the requirements of Article 25.

#### **Article ( ) Disclosure upon listing**

Any company requesting the listing of its securities on the market, shall provide the Commission with the information and data specified hereunder attached to the listing application:

- a) A report from the company's board of directors including the following:

- 1- A briefing of the company's establishment, main objectives, its relation with other companies , if any, affiliated with, controlling, or controlled by the applicant company.
  - 2- A description of the securities issued by the company and the securities which the company intends to list.
  - 3-
  - 4- Names of the board of directors' members, and names and titles of senior executive managers, the securities owned by them or their relatives which are issued by applicant company or any company affiliated with, under the control of, or controlled by the applicant company and the membership of any of them on other boards of directors.
  - 5- Names of all owners of 5% or more of any class of securities issued by the company and the number of securities owned by each
  - 6-
- b) The Company's financial statements, which include the following:
- 1- The annual report of the company for the year preceding the date of submitting the listing application, which shall include the board of director's report and the company's financial statements and the company's auditors report.
  - 2- Periodical financial statements audited by the company's auditors which cover the period between the end of the fiscal year preceding the date of submitting the listing application and the end of the last quarter preceding the date of the listing application.

**Article (4)** Any issuing company which the Commission approves the listing of its securities in the Market shall announce, within ten days as of the date of the Commission's approval of the listing, the annual and periodical financial statements, and a summary of the board of directors report submitted for purposes of listing as referred to in Article (3) of these Instructions, provided that such announcement shall be made prior to commencement of trading in the Company's securities on the Market.

## 1. Chapter 2

### Disclosure of Periodical Financial statements

**Article (5)** a) Any issuing company shall, within no more than 45 days of the end of its fiscal year, declare its primary actions results upon primary revision of such by its auditor and shall provide the Commissions of copies thereof.

b) The primary results referred to in Paragraph (A) of this Article shall at a minimum include the following:

- 1- Net revenues.
- 2- Expected net profit prior to tax.
- 3- Designated income tax for the expected profits.
- 4- Minority rights in the profits.
- 5- Net profit of the company's shareholders after deducting the designated tax and the minority rights.
- 6- Comparative figures with the preceding fiscal year of items (1-5) above.
- 7- Summary of the Company's actions results during the fiscal year.

### **Article (6)      Annual reports**

The Board of Directors of the issuing company shall prepare and provide the shareholders, the stock exchange, if any, on which it is listed and the Commission with the company's annual report within a period not exceeding three months as of the end of its fiscal year. Such report shall include the following:

- a) The Chairman's speech.
- b) The Board of Director's report which shall include the following:
  - 1- Description of any governmental protection or privileges the company or any of its products enjoys pursuant to laws and regulations or otherwise with reference to the period such is applied thereto. A

- description of any patents or concessions that were granted to the Company.
- 2- Description of any decisions adopted by the Government, international organizations or otherwise which has material effect on the Company's operations, products or competitive ability, and shall disclose the extend by which the company abides with the international quality standards.
  - 3- The Company's accomplishments substantiated with figures, and a description of significant events that encountered the company during the fiscal year.
  - 4- The competitive status of the Company within the sector of its activities, its main markets its share in the domestic market and in foreign markets if possible.
  - 5- Degree of dependence on specific providers and/or main customers (whether domestic or abroad), where such constitutes (10%) or more of aggregate purchases and/or sales or revenues respectively.
  - 6- The financial effect of transactions of non-repetitive nature which occurred during the fiscal year, which are not included in the Company's main activity.
  - 7- Time chain of incurred profits or losses, distributed profits, the shareholder's net equity and the prices of securities issued by the Company, for a period of no less than five years or where the Company has not completed five years since its establishment, from the date of its establishment, with a graphical illustration thereof whenever feasible.
  - 8- Analysis of the Company's financial status and actions results during the fiscal year.
  - 9- Significant future plans for the coming year,.
  - 10-Amount of auditing fees for the Company and the affiliates thereof, and amount of any fees for other services received by and/or due to the auditor.
  - 11-Description of the Company's main activities, their geographical locations, volume of capital investment and the number of employees in each activity.

- 12-Description of affiliated companies, nature of their work and fields of their activities.
- 13-Names of the members of the board of directors, and names and titles of senior executive managers and a resume of each.
- 14-Number of securities issued by the Company, and securities owned by any member of the board of directors and senior executive manager and their relatives, and companies controlled by any of them, compared with the preceding year.
- 15-Privileges and bonuses that the Chairman and members of the board of directors and senior executive managers enjoy during the fiscal year, including all amounts received by them as wages, fees, salaries, bonuses and others, and amounts paid to them as travel and transportation expenses inside and outside the Kingdom.
- 16-Donations and grants made by the Company during the fiscal year, detailed according to the entities receiving such.
- 17-Names of senior shareholders of shares issued by the Company and the number of shares owned by each of them where such ownership amounts to 5% or more, compared with the preceding year.
- 18-Organizational structure of the issuing company, its appointing policy, number of employees, their qualification categories and turn-over ratio, and rehabilitation and training programs for the company's employees.
- 19-Contracts, projects and commitments concluded by the issuing company with the Chairman or Members of the Board of Directors, the Director General, any employee of the Company or their relatives.
- 20-The Company's contribution in serving the environment and the local society.

c) The Company's annual financial statements certified by its auditors, compared with the preceding year, which shall include the following:

- 1- The certified Balance Sheet.
- 2- Certified Profits and losses account.



- 3- Cash-flow list.
- 4- Changes in the shareholders equity.
- 5- Explanations of the financial statements.

d) The Company's auditor's report on the company's annual financial statements including a statement that auditing procedures have been conducted according to accounting standards stipulated pursuant to these Instructions.

e) 1- A declaration from the Company's board of directors that, according to the board's knowledge and beliefs, there had been no significant matters affecting the continuity of the Company during the following fiscal year.

- 2- A declaration from the Company's board of directors of its responsibility for preparing the financial statements and for providing effective control system in the Company. **Article (7) Semi-annual reports**

Any issuing company shall, within a period not exceeding three months as of the end of its fiscal year, announce its annual statements after approving them from its board of directors, and upon issuance of the auditors report, prior to distributing such to the shareholders, provided the announcement shall also include ample summary of the board of director's report, and the full text of the auditors report.

**Article (8)** a) The board of directors of the issuing company shall prepare a semi-annual report compared with the same period of the preceding fiscal year, and shall announce such report within a period not exceeding one month as of the end of such period provide the Commission of copies thereof.

b) The report referred to in Paragraph (A) of this Article shall include the following:

- 1- Summary financial statement, including a balance sheet and profit and loss statement for the 6-month period, neither of which needs to be certified by the auditors.

- 2- Cash-flow list.
- 3- Necessary explanations.
- 4-
- 5- Summary report on the Company's action results during the set period in comparison with the future plan that has been already established.

**Article (9)** Any public shareholding company that changes its fiscal year shall prepare the financial statements specified hereunder which shall cover the transitional period starting from the end of the preceding fiscal year and ending at the beginning of the new fiscal year. The company shall announce such statements and provide the Commission of copies thereof no later than 45 days as of the end of the transitional period, provided that such statements are audited by the company's auditors:

- 1- The Balance Sheet.
- 2- Profits and losses account during the transitional period.
- 3- Cash-flow list.
- 4- Changes in the shareholders equity.
- 5- Explanations of the financial statements.
- 6- The Company's auditors report for the transitional period.

2.

### 3. Chapter 3

#### Disclosure of Significant Matters and Important Events

**Article (10)** Any issuing company shall, and without delay, and through any means that achieves the required urgency, inform the Commission of, and promptly announce or declare upon the occurrence of significant matters or important events that could affect the Company's profitability, its financial status or the prices of securities issued therefrom, particularly the following significant matters and important events:

- a) Important changes that occur to the following:
  - 1- The Company's assets.

- 2- The obligations of the Company whether short-term or long-term, and any seizures on its assets.
  - 3- The Company's capital structure.
  - 4- The Company's products.
  - 5- Changes in the ownership of the Company's shares which result in a change in the control of the Company's management.
- b) Major transactions concluded by the Company or the cancellation of such, and the Company's Board of Directors assessment of the anticipated impact of such transactions on the profitability and financial status of the Company.
- c) Transactions of non-repetitive nature that may have material effect on the Company's profitability or financial status.
- d) Disasters and fires and their anticipated impact on the Company's financial status.
- e) Any sudden material losses that affected the Company's financial status. Reasons thereof shall also be stated.
- f) Important decisions of the Board of Directors that may affect the prices of the Company's issued securities, including decisions that relate to:
- 1- Issuing new securities, or redeeming existing ones.
  - 2- Changes in capital investments or the Company's objectives and markets.
  - 3- Initiation of a merger.
  - 4- Distributing profits.
  - 5- Voluntary liquidation.
- g) The Company's General Assembly decisions.
- h) Constituting a new Board of Directors of the Company, resignation of any Member of the Board or the General Manager, any vacancy in their positions, and the reasons thereof promptly upon the occurrence of such, as well

as the Board of Director's decisions regarding the appointment of new members to the Board and a new General Manager and his qualifications.

- i) Suspension of the activities of the Company, any branch, factory or affiliated company thereof and the reasons therefor.

**Article (11)** The issuing company shall provide the Commission with a detailed report on all significant matters or important events that have been announced or declared along with a copy of the announcement or the press statement as the case may be.

**Article (12)** The issuing company shall provide the Commission with sufficient information on the cases it filed or are filed against it, which might have material effect on the Company's financial status, and their anticipated effect on the company's profitability and financial status.

**Article (13)** a) If the issuing Company has reasonable grounds to believe that declaration of significant matters or important events would be to a great extent prejudice to the Company's interests, and that no dealing have been, or will be made in its issued securities by Members of the Board of Directors or senior executive officers, or their relatives on the basis of such inside information, the issuing company shall provide the Chairman of the Commission with such information, and may request from the Chairman of the Commission to consider such confidential until the reasons therefor have been eliminated.

- b) The Chairman of the Commission may deem such information confidential until the reasons therefor have been eliminated, or may require the issuing company to declare such information in accordance with the provisions of these Instructions.

## 4. Chapter 4

### *(a) Disclosure Relating to Financial Brokerage Companies*

b)

c) **Article (14)** Subject to disclosure requirements pertaining to issuing companies, any financial brokerage company shall, within a period not exceeding three months as of the end of its fiscal year, prepare an annual report and provide the Commission with a copy thereof provided it contains the following:

- a) The Company's management report which shall set forth the following:
  - 1- The legal status of the Company and a description of its main activities.
  - 2- The accomplishments achieved by the Company during the fiscal year substantiated with figures.
  - 3- The Company's competitive status and its market share for the preceding five years or from the date of its establishment whichever is less.
  - 4- The development of the Company's capital and property rights for the preceding five years or from the date of its establishment whichever is less.
  - 5- An analysis of the Company's financial status and actions results during the fiscal year.
  - 6- A statement of the names of the Company's Board of Directors or the Members of the Director's Committee or the partners as the case may be, and the employees of the Brokerage Bureau and their qualifications, expertise and job titles.

- b) The Company's annual financial statements certified by its auditors, including the following:
  - 1- The Balance Sheet.
  - 2- Profits and losses account.
  - 3- Cash-flow list.
  - 4- Explanations of the financial statements.

In addition, the Company's auditors shall prepare a year-to-year comparison of financial results for the past two years.

- c) The Company's auditor's report on the Company's annual financial statements including a statement that auditing procedures have been conducted according to accounting standards stipulated pursuant to these Instructions.
- d) A declaration by the Company's management that, according to its knowledge and beliefs, there are no significant matters that would affect the continuity of the Company during the following fiscal year.

**Article (15)** The financial brokerage company shall announce its audited annual financial statements referred to in Article 14 of these Instructions within a period not exceeding three months as of the end of its fiscal year.

- Article (16)**
- a) The brokerage company shall prepare and provide the Commissions with a semi-annual report revised by its auditors within a period not exceeding one month as of the end of such period, provided that such report include the following:
    - 1- The Balance Sheet.
    - 2- Profits and losses account.
    - 3- Cash-flow list.
    - 4- Explanations of the financial statements.

- d)
- e)            b) The Financial Brokerage Company shall announce the semi-annual financial statements referred to in Paragraph (A) of this Article within a period not exceeding one month as of the end of such period.
- f)
- g) **Article (17)**            All members of the Board of Directors or the Directors Committee or the partners as the case may be, and the employees of any Brokerage Company shall provide the Commission with monthly reports of their dealings in securities or dealings of their relatives, whether by selling or purchasing of such within seven days as of the end of such month.
- h)
- i) **Article (18)**            The Brokerage Company shall, once every year, announce the affiliated persons who are authorized to receive sale and purchase orders, and its accredited brokers and agents. It shall also announce the commencement and termination of the relation between such persons and the Brokerage Company upon the occurrence of such.
- j)
- k) **Article (19)**            Any Brokerage Company, members of its Board of Directors or the Directors Committee, or the partners, as the case may be, and its General Manager or accredited brokers, shall inform the Commission in writing of their membership in the Boards of Directors of Public Shareholding Companies, whether in their personal capacity or in any capacity, and with any changes occurring on such within seven days as of the occurrence of such.

**Article (20)**    All Brokerage Companies, except public shareholding companies, shall inform the Commission in writing with any changes in its ownership promptly as they occur, and shall provide it with official documents proving such.

## 5. Chapter 5

### Dealing in Securities by Insiders

**Article (21)**    Any issuing company shall inform the Commission in writing of the names and

qualifications of the senior executive officers upon their appointment or departure for any reason within seven days as of the occurrence of such.

**Article (22)** a) The Chairman and Members of the Board of Directors of the issuing company and senior executive officers shall declare in writing to the Commission any securities issued by the company or any affiliated, controlled or controlling company or company under common control which they or their relatives own within one week of their election or appointment as the case may be, as well as inform the Commission in writing of any change thereon, within one week of the occurrence of such change.

b) Each of the Chairman, Members of the Board of Directors and senior executive officers of an issuing company or any employee, consultant or expert that has access to its insider information ex officio, shall formerly inform the Commission in writing of his decision to sell or purchase a number of securities representing 1% or more of the company's issues and/or the issues of controlled, affiliated or controlling company or company under common control, whether such sale or purchase is for his own account and/or for accounts at his disposal.

**Article (23)** Any person who owns or has at his disposal 5% or more of the securities of one issuing company, shall inform the Commission in writing within one week as of the occurrence of such, and shall also inform the Commission in writing of any changes thereon within one week as of the occurrence of such change.



## 6. Chapter 6

## 7. Accounting Standards

a)

- b) **Article (24)** a) All entities subject to the Commission's monitoring shall apply International Accounting Standards issued by the International Accounting Standards Committee.

c)

- d) b) If there is a conflict between the standards referred to in Paragraph (A) of this Article and the legislation in force in the Kingdom, the national legislation shall supersede. The entities subject to the Commission's monitoring shall disclose such along with its impact on the financial lists.

c) All financial statements required to be submitted pursuant to these regulations or by the Securities Law shall include a certification by the auditors that they are independent according to the standards of independence set forth in the Companies Law and that they do not otherwise perform any technical, administrative or consultancy work for the company they have audited and that no principal or employee of the auditing firm is a relative, partner or business associate of any member of the company's board of directors.

- e)
- f) **Article (25)** a) At the beginning of each year, the Board of Directors of the issuing company shall form an auditing committee of three members of its non-executive members, and shall inform the Commission of such along with the changes occurring thereon and the reasons thereof.
- g)
- h) b) The auditing committee shall convene periodically and shall promptly submit its reports to the Board of Directors, provided that the Committee shall meet at least four times a year.
- i)
- j) c) The auditing committee may request any information from any employee of the company. All employees shall cooperate with the committee. The committee may also request legal, financial or technical advice from any outsider consultant.
- k)
- l) d) The auditing committee shall undertake the following:
  - 1- Examining and discussing matters arising from the work of the external and/or internal auditor, in addition to any other matters the committee deems necessary to discuss.
  - 2- Examining the external auditor's notes book pertaining to the internal monitoring system and the replies of the company's management thereon.
  - 3- Examining the annual and periodical financial reports prior to presenting them to the Board of Directors, in particular the accounting policies and any amendments thereto, and the significant amendments resulting from the auditing procedures, and the extent of complying with the Commission's Instructions and other legal requirements.

### **(1) Chapter 7**

#### **Auditing Standards and the Requirements for Auditors of Entities Subject to the Commission's Monitoring**

**Article 26** The International Auditing Standards issued by the International Auditing Committee shall be adopted in auditing the accounts of entities subject to the Commission's monitoring.

- (a) **Article (27)** Any auditor of any entity subject to the Commission's monitoring shall:
- a) Have a valid license from the Auditing Profession Council.
  - b) Be a member of the Jordanian Auditors Association.
  - c) Be classified in category (A) according to the auditors classification regulation in force.
  - d) Have practiced the profession for at least 3 years at full time basis after obtaining license to practice auditing.
  - e) Have one or more partner or employee who meet the aforementioned requirements.

- Article 28** Any auditor of any entity subject to the Commission's monitoring shall undertake the following duties:
- a) Implement the auditing standards stipulated pursuant to these Instructions.
  - b) Comply with professional conduct standards provided in the Profession of Auditing Law, and the Regulation and Instructions of Jordanian Auditors Association in force, and any Instructions issued by the Commission for this purpose.
  - c) Enhance his qualifications and technical skills, and observe the developments occurring to the profession through continuous training courses organized by the Jordanian Auditors Association or any other entities accredited thereby.

**Article (29)** The Jordanian Auditors Association shall, in coordination with the Commission, set forth the procedures necessary to implement the provisions of Article (28) of these Instructions.

**Article (30)** The Jordanian Auditors Association shall, annually and within the first month of each year, provide the Commission with a list of the names of the auditors who meet the required conditions, and any amendments thereto.

**Article (31)** Subject to the provisions of the Companies Law, the Company's external auditor report shall include the following:

- a) Date of the report.
- b) The name of the audit bureau, and the auditor's name, signature, license number, classification category and address.
- c) The financial statements included in the report.
- d) A statement that the auditing procedures are conducted in accordance with the auditing standards stipulated pursuant to these Instructions.
- e) The auditor's opinion on the authenticity and fairness of the financial statements along with a testimony that such statements are prepared in accordance with the auditing standards stipulated pursuant to these Instructions.

(b) **Article (32)** Subject to the Companies Law in force, if the Company's auditor, in his report, makes reservations on, gives an adverse opinion on, or refrains from giving an opinion on the annual financial statements, such auditor shall clearly state the reasons thereof and the impacts of such reasons on the financial statements, and shall inform the Commission of such. The relevant company shall provide the Commission in writing with its opinion on the auditor's report referred to in this Article.

**Article (33)** If a new auditor for the Company is elected, or the auditor has been changed during the year, or the position of the auditor becomes vacant for any reason, the Company shall inform the Commission in writing within two weeks from the occurrence of such, provided that the written notice shall include:

- a) A statement on whether the auditor declined from carrying out his duty and the reasons therefor.
- b) A statement on whether there is a conflict between the auditor and the company's Board of Directors.
- c) A statement on whether the auditor's report included any reservations on the company's

financial statements within the preceding two years.

**Article (34)** If an auditor of an entity subject to the Commission's monitoring declines from auditing the accounts of such entity for any reason, or a conflict arises between the auditor and the management of the entity subject to the Commission's monitoring, the auditor shall, within two weeks as of the occurrence of such, inform the Commission in writing of the reasons for his decline or of the conflict as the case may be.

## (i) Chapter 8

### General Provisions

**Article (35)** a) For the purposes of these Instructions, the term "announce" shall mean publishing the relevant information and data in Arabic for a single time in at least one daily newspaper, and in other publications issued by the Commission.

b) For the purposes of these Instructions, the term "Declare" shall mean publishing or making a press release through any means of media.

c) Making of the announcement, its content, its publication or declaration shall be the responsibility of the Chairman of the Board of Directors or any delegate thereof authorized in writing, provided that the Commission shall be informed by a written statement of the name and title of such person.

**Article (36)** For the purposes of implementing the provisions of these Instructions, all issuing companies and financial brokerage companies shall abide to the following:

a) Provide the Commission with the information and data that shall be announced or declared pursuant to the provisions of these Instructions within the specified period and prior to announcing such information or data.

- b) Prepare all the information and data stipulated in these Instructions in Arabic.
- c) In addition to what is stated in Paragraph (B) of this Article, prepare a summary of the annual report in English and provide the Commission with copies thereof within the period specified in these Instructions.

**Article (37)** These Instructions shall be published in the Official Gazette, and shall be announced in the media, and shall be promulgated to relevant parties.

**PART II Redline version of Licensing**  
**Instruction**

**Draft revised instructions to conform to proposed changes in the securities law**

February 2001

**Instructions on Licensing of Activities of Financial Services Companies and Certified Financial Professionals No. () for the Year**

Issued by the Commissioners of the Securities Commission pursuant to Articles of the Securities Law No. () for the Year

**Article (1)** These Instructions shall be known as the . . . .

Since the law itself provides definitions, there is no need to repeat the definitions in the regulations. Furthermore, in the new Law, some of the definitions have been changed from those provided in the following Article (2). Accordingly, Article (2) is deleted.

**Chapter One**  
**Financial Services Companies**

The items covered in the following Article (3) are covered in the Law itself and need not be repeated in the regulations. Moreover, there are inconsistencies between the following provision and the provisions of the new Law. Accordingly, this Article is deleted.

**Article (5)** Granting licenses to practice any of the activities of financial services companies or renewals thereof shall be subject to the following conditions:

- a) The license applicant shall be a legal person created under the Laws of the Kingdom or a foreign person authorized to conduct business in the Kingdom.
- b) If the license applicant is a bank, the license shall be granted provided practice is through a subsidiary or affiliate company, or through separate accounts.
- c) The minimum paid capital of the company for each requested activity shall be as follows:
  1. Investment trusteeship 250,000 JD.
  2. Investment management 500,000 JD.
  3. Financial advisory 30,000 JD.
  4. Financial brokerage
    - A. Brokerage fo 250,000 JD.  
commission only
    - B. Brokerage fo 500,000 JD.

commission and dealing in securities for own account	
5. Depository services	1,000,000 JD.
6. Management of primary issues	
A. Issue manager	100,000 JD.
B. Underwriter	5,000,000 JD.

- d) If a company practices two or more of the activities of financial services companies, its minimum capital requirement shall be equal to the sum of the minimum capital requirements of each of the activities it practices, in accordance with the provisions of of this Article.
- e) The company's management shall have the requisite experience and qualification to carry out the company's activities in accordance with the provisions of these Instructions and any instructions issued by the Commission .
- f) The company shall submit a bank guarantee to the order of the Commission in the amount specified by the Commission , provided the amount of the guarantee for each activity shall not exceed the following:
- |                                  |             |
|----------------------------------|-------------|
| 1. Investment trusteeship        | 100,000 JD. |
| 2. Investment management         | 250,000 JD. |
| 3. Financial advisory            | 10,000 JD.  |
| 4. Financial brokerage           | 150,000 JD. |
| 5. Depository services           | 250,000 JD. |
| 6. Management of primary issues: |             |
| A. Issue manager                 | 50,000 JD.  |
| B. Underwriter                   | 500,000 JD. |
- g) The guarantees shall be a surety against the obligations of the companies against others, and so as to ensure compliance with the legislation in force.
- h) The licensing fees and the annual licensing renewal fees are paid in accordance with the issued regulations and instructions.

**Article (6)** Only licensed financial brokers may be licensed to practice securities accounts management.

**Article (7)** Net shareholders equity shall constitute at least (75%) of the company's minimum capital requirement as determined on the basis of the activities the company is licensed to practice.

**Article (8)** An application for a license to practice any financial services activity shall be submitted to the Commission in writing and shall include or have attached therewith the following:

a) The name and address of the applicant and the locations of its branches, if any.



- b) The number and date of the company's registration with the Companies Controller.
- c) The names and addresses of senior executive managers and a resume of their professional background in the field of securities.
- d) Evidence by members of the Board of Directors, senior executive managers, and proposed founders that they have not been convicted with a crime or a misdemeanor affecting honor or public morals.
- e) The name of any person who owns (5%) or more of the applicant's capital.
- f) The amount of the applicant's liabilities, details and guarantees of such, and the names of the guarantors of such liabilities, if any. Banks shall be excluded from such requirement.
- g) The required financial data as it is on a date not prior to three months from the date of the application.
- h) The memorandum of incorporation and articles of incorporation, partnership agreement or other documents of organization.
- i) The basis on which the applicant will calculate its commissions or fees.

**Article (9)** The Commission shall issue a decision approving or denying the licensing application within thirty days from the date of submission of an application which contains all the required information. A rejection decision shall be justified.

**Article (10)** The company may establish branches within or outside the Kingdom upon obtaining the Commission's approval and subject to any instructions issued for this purpose.

**Article (11)** The Rights and obligations of the merged companies shall devolve to the merging company or the company resulting from the merger *de jure* upon concluding the merger procedures and registering the company according to the provisions of the Companies Law No. (22) for the year 1997. The merging company or the company resulting from the merger shall be the legal successor of the merged companies with respect to all their rights and obligations.

**Article (12)** The company shall inform the Commission within seven days from the date of occurrence of any of the following:

- a) Changes in the company's address in the Kingdom or of in the address of any of its branches.
- b) Changes in the name of any shareholder who own (5%) or more of the company's capital.
- c) Changing the chairman, or any member of the Board of Directors or any senior executive manager, provided grounds are stated if any of the aforementioned resigns, is terminated, ceases to work, or changes positions.
- d) Appointing or terminating any certified financial professional, provided the grounds for termination are stated.
- e) Establishing or closing any branch of the company within and outside the Kingdom, and the name and address of the branch's manager.

- f) Change of manager or address of any branch of the company.

**Article (13)** a) A licensee may not own (5%) or more of the capital of another company without the Commission's written approval.

- b) A licensee which intends to acquire (5%) or more of the capital of another company shall submit to the Commission, at least one week prior to the proposed date of acquisition, a written request stating the licensee's objectives behind the acquisition and any relevant facts that would enable the Commission to determine whether such acquisition is conducive to:

- 1- A probable conflict of interest.
- 2- the likelihood of non-compliance with the licensing conditions or insufficient level of investor protection.

- c) The Commission shall issue a decision regarding the request within one week from the date of submission.

**Article (14)** A licensee shall provide in any publication wherein it recommends the purchase, sale or retention of a certain security a detailed and complete statement of any direct or indirect interest in this security by itself, any partner, manager, or *insider* therein, including the following:

- a) Any ownership by any of the aforementioned related to this security or any securities issued by the same issuer.
- b) Any commissions or compensations received or expected by any of the aforementioned from any person related to any dealing in this security.
- c) Any financial ties or arrangements between any of the aforementioned and the underwriter or any other person which pertain to this security.

**Article (15)** In any publication issued or published thereby in which it recommends the purchase, sale, or exchange of a certain security, the licensee shall indicate clearly whether it or any of its officers or managers has assumed the role of an underwriter for that security, received any fees or commission from the issuer of the security in the preceding twelve months, or expects to receive any fees or commissions as a result of the recommended procedure.

**Article (16)** In any publication thereby that includes any offer or invitation related to dealing in any security, and in any prospectus where the licensee is presented as an underwriter, the licensee shall declare the name of each person, who maintains along with relatives thereof, an interest in (5%) or more of the company's capital.

**Article (17)** The sale or purchase of securities shall only be through the Amman Bourse/the Securities Exchange.

**Article (18)** A financial broker shall not sell any security unless after verifying the ownership thereof.

**Article (19)** a) The licensee shall maintain books and accounting records and the records necessary to carry out its activities in an organized and accurate manner, and in accordance with the recognized accounting standards and the instructions issued by the Commission .

- b) The books and records referred to in Paragraph (a) of this Article may be maintained electronically or by any other permitted means subject to the following:
  - 1. Appropriate, necessary and preventive measures are taken to ensure the integrity and the security of information.
  - 2. The said information and data shall be easily accessible and in clear and accurate format, within a reasonable time to any person entitled to examine or view such records.

**Article (20)** a) The licensee shall set out in writing work procedures for dealing with clients, which reflect due diligence, and allow it to serve its clients well. The licensee shall also take all necessary measures to oversee such procedures, provided this is done in accordance with the regulations and instructions issued for this purpose.

- b) The procedures referred to in Paragraph (a) of this Article shall assign a partner, a member of the Board of Directors or a designee of the licensee to approve opening new accounts and supervise dealings on behalf of said client. Branch managers shall assume this responsibility in their branches.

- c) The licensee shall verify the following:
  - 1- The client's identity, financial capability, and reputation.
  - 2- Conformity of the sale or purchase being executed for the client's account with general investment criteria and the client's investment objectives.

d) The provisions of Paragraph (c) of this Article shall not apply to licensee that execute sale and purchase transactions pursuant to an authorization by the investment manager or another company.

**Article (21)** a) The licensee shall send to the client an account statement for any month in which a transaction is recorded [to the client's account].

- b) The licensee shall send to each client an account statement indicating the account balance and particulars about any security owned by the client, at least once every three months unless provided otherwise in the agreement signed with the client.

**Article (22)** The financial advisor and the investment manager shall set out the criteria for fairness in allocating investment opportunities between clients and shall provide all clients with copies of such criteria after their depositing with the Commission.

**Article (23)** a) The licensee shall clearly indicate to the client in advance and prior to contracting therewith, any commissions and expenses the client would incur by dealing with the licensee .

- b) The financial advisor and the investment manager may determine the commission on basis of the value of the client's portfolio or the volume or value of the transactions carried out for the client's account, or as a percentage of the profits, or by any other method, subject however to the client's written approval.

**Article (24)** The financial advisor shall make known to the advisee in advance that his role is strictly advisory without guaranteeing outcomes

**Article (25)** The investment manager or the financial advisor shall disclose to the client any direct interest he has in any security prior to selling or purchasing such a security for any of the accounts subject to his supervision, management or advice.

**Article (26)** At the beginning of each year, the investment manager shall submit to the Commission and the concerned investment trustee a report specifying the securities owned by senior executive managers.

**Article (27)** If it becomes evident to the Commission that a licensee faces problems that constitute a threat to the stability of the capital market, shareholders interests, or the interests of those dealing with it, or that it has ceased to fulfil any of the licensing conditions stated in Article (5) of these Instructions, the Commission, after allowing the licensee to be heard and to present its defense, may take any of the following measures:

- a) Serve the company with a warning;
- b) Request the Chairman of the Company's Board of Directors or the Chairman of the Company's Directors' Committee, as the case may be, to summon a special Board meeting to look into violations attributed to the Company and to take the necessary measures to

rectify such violations. Such meeting shall be attended by one or more of the Commission's representatives in an observer capacity.

- c) Prohibit the company from practicing all or some of the licensed activities.
- d) Appoint at the Company's Board of Directors or Directors' Committee as the case may be, for a period set by the Commission, an observer member, who shall be entitled to participate in the Board's deliberations without voting, and to record in the minutes of the meeting his points of view of the decisions adopted therein.
- e) Require the company to increase the guarantee or guarantees submitted by it in the amounts deemed appropriate by the Commission.
- f) Liquidate the submitted guarantees.
- g) Suspend the company from operating for the period deemed appropriate by the Commission.
- h) Cancel the company's licensing.

**Article (28)** If it deems necessary, the Commission may appoint for a set period, and at the licensee's expense, an auditor in addition to the one appointed by the licensee to carry out certain auditing activities.

## **Chapter Two**

### **Issue Management**

**Article (29)** A company licensed to manage primary issue as an underwriter may underwrite issues by one of the following two methods:

- a) Firm commitment: Wherein the underwriter undertakes to buy part or all of the entire issue at an agreed price in accordance with the underwriting agreement concluded between the underwriter and the issuer.
- b) Best efforts: Wherein the underwriter agrees to act as the agent of the issuer and undertakes to exert best efforts to attract buyers for the issue, including publicizing the issue in the media, without however ensuring the sale of a specific amount of the securities, nor undertaking to buy any securities of this issue.

**Article (30)** The underwriter shall provide the Commission with a copy of the agreement concluded between the underwriter and the issuer

**Article (31)** The issue manager shall be responsible for the authenticity, accuracy and completion of what is stated in the prospectus.

**Article (32)** The issuer shall inform the issue manager and the underwriter of any substantial amendments or changes thereto during the subscription period so as necessary measures are taken in accordance with the provisions of the Securities Law and the Instructions issued pursuant thereto.

### **Chapter Three** **Investment Trusteeship**

**Article (33)** a) The activities of the investment trustee shall include evaluating and monitoring management of the clients' investments so as to ensure conformity with the client's investment policy specified in the agreement concluded between the client and the investment manager, and with the provisions of the Securities Law and the Instructions issued pursuant thereto. The investment trustee shall be the one authorized to sign on the client's behalf in accordance with the agreement concluded with the client.

b) In addition to the provisions of Paragraph (a) of this Article, the tasks of the investment trustee shall include carrying out investment trusteeship activities for the investment fund.

**Article (34)** The investment trustee shall inform the Commission, the client, and the client's auditor, if any, of any violations committed by the investment manager upon learning of such, and shall request the investment manager to rectify the violation immediately. If the investment manager fails to comply with the request, he shall be liable for consequences.

**Article (35)** A company shall not perform both investment trusteeship and investment management functions for the same client.

**Article (36)** The investment trustee shall monitor the depositor's fulfillment of its obligations towards the client concerned according to the agreement signed between them.

**Article (37)** The investment trustee shall provide clients with detailed written monthly reports of all cash accounts kept in their name providing therein details of the transactions conducted in relation to the investments monitored by him and which have occurred after submitting the last report, together with any suggestions he deems appropriate to include therein.

#### **Chapter Four Securities Deposit**

**Article (40)** A company seeking licensing for carrying out depository activities shall provide the following in the petition:

- a) A list of the services intended to be provided.
- b) The forms for approving and registering securities and establishing their ownership.
- c) The general basis for charging clients.
- d) A sample deposit agreement with the client.
- e) A sample periodic account statement.

**Article (41)** A depository shall obtain the Commission's prior written approval before providing other services or making any changes or modification to the services it provides.

**Article (42)** The depository shall:

- a) separate clients' securities deposited therewith from its own securities;
- b) exclude the values of securities deposited therewith from its assets and liabilities, and the returns on such securities and capital gains or losses resulting from dealing therein from its final accounts;
- c) indicate the market value of the securities deposited therewith in its published financial statements;
- d) not pledge the securities deposited therewith against the depositor's liabilities unless otherwise provided in any of the agreements concluded therewith

**Article (43)** a) The depository shall open a special account for each client/depositor who owns the securities deposited therewith indicating therein the securities deposited by the client.

- b) The depository shall maintain and manage the accounts listed in Paragraph (a) of this Article in conformity with the instructions issued by the Commission in this regard.
- c) The depository shall not dispose of the securities deposited therewith unless in accordance with the provisions of the securities deposit agreement concluded with its client.
- d) The depository's records and accounts listed in Paragraph (a) of this Article and any documents issued by the depository which specify the balance of such accounts, shall be deemed as a proof of the securities ownership.

**Article (44)** The securities depositor shall be entitled to any approved cash dividends and due interest on any deposited security.

- Article (45)**
- a) Registering the securities in the name of the depository shall not derogate from the depositor's ownership of the securities and any rights associated therewith.
  - b) In case of death of depositor who is a natural person, ownership of the securities deposited thereby shall cede to the depositor's legitimate heirs after full payment of the depositor's financial obligations towards the depository in accordance with the agreement concluded between them.
  - c) In case of the liquidation of a depositor who is a juridical person, ownership of securities deposited thereby shall cede to the juridical person under liquidation after full payment of the depositor's financial obligations towards the depository.
  - d) In case of attachment of the depositor's property, the depository shall not dispose with the depositor's securities and shall duly inform the attaching entity thereabout.
  - e) In case of the liquidation of the depository, ownership of the deposited securities shall cede to the depositors after full payment of any outstanding financial obligations due to the depository.
  - f) Attachment of the depository's property shall not extend to the securities deposited therewith.

## Chapter Five

### Certified Financial Professionals



**Article (47)** A License to practice any of the certified financial professionals activities is granted to a natural person subject to all of the following conditions:

- a) The person has full capacity, is of good reputation and manners, and is not convicted with a crime or a misdemeanor affecting honor or public morals.
- b) The person holds at least a first university degree.
- c) The person has participated in the general training course accredited by the Commission for this purpose.
- d) The person has participated in the specialized training course accredited by the Commission for the purposes of obtaining the required license.
- e) The person has passed the exams set by the Commission.
- f) The person has paid the licensing fees and the annual licensing renewal fees in accordance with the issued regulations and instructions.
- g) The person meets any other conditions stipulated by the Commission.

**Article (48)** A natural person who has sufficient educational qualifications and practical experience shall be exempted from the requirements of Paragraphs (c, d, e) of Article (47) of these Instructions.

- Article (49)**
- a) The license of a certified financial professional is deemed suspended if he is terminated by the company or if the company's license is suspended or revoked.
  - b) The certified financial professional referred to in Paragraph (a) of this Article may practice as a certified financial professional only if employed by a financial services company and subject to the Commission's approval.

**Article (50)** A certified financial professional shall notify the Commission in writing within one week from the date of the occurrence of any of the following:

- a) A change in his address or business address.
- b) Employment or termination thereof by a financial services company, with a statement of the reasons for termination.

**Article (51)** A certified financial professional who for any reason does not practice the licensed activity for three consecutive years shall be disqualified as certified financial professional, and may resume practice as a certified financial professional subject to the provisions of Article (47) of these Instructions.

## Chapter Six

### General Provisions

**Article (52)** a) The commission may request the applicant or the licensee to submit any additional information or data within a specific period of time or to verify any such information or data by acknowledgement or otherwise.

b) The Commission may summon the licensee or any person in charge, or manager or employee thereof to hear their statements on certain matters determined by the Commission.

**Article (53)** The company's relationship with licensed certified financial professionals, and with others, including its clients shall be governed by written agreements concluded between the concerned parties.

**Article (54)** Licenses issued pursuant to these Instructions shall be valid for one year ending on the 31<sup>st</sup> of December of each year and shall be renewed automatically unless otherwise provided by the Commission. The license for the first year shall be valid from the date of issuance until 31/12 of the same year.

**Article (55)** The company and the certified financial professional shall inform the Commission in writing and without delay of any changes in the information submitted by them to the Commission.

**Article (56)** a) Only licensed person may present himself to others directly or indirectly as licensee or announce himself as a licensee by any of the media means.

b) No person shall present any written or verbal claims that the Commission attests to or approves the properness of any act, or conduct, or the soundness of a financial situation, or of the activities of any licensee or the advantages of any security or issuer.

**Article (57)** All information and records submitted to the Commission by companies and certified financial professionals shall be in writing and shall be duly signed by them; provided, however, that the Commission may permit submissions to be made electronically in specified situations.

**Article (58)** The company shall immediately inform the Commission if it faces any financial troubles or an imminent threat thereof.

- Article (59)** a) A company may not defame another company or discredit its professional status.
- b) Professional relationships between financial services companies shall be based on fair competition, and cooperation to advance the profession.
- c) The company and its employees shall observe principles of honor, honesty, integrity, fidelity and standards of professional conduct and shall always work so to promote and protect the clients interests.

**Article (60)** The client may seek compensation from the company for any resulting damages if the company breaches any of its obligations towards the client, or takes any action against his interest, or commits an evident error or violation.

**Article (61)** The Commission may issue the necessary forms for the purposes of obtaining the required information pursuant to these Instructions. The Commission, in its discretion, may publish such forms on its website.

**Article (62)** These Instructions shall be published in the Official Gazette and shall be announced in the media and shall be publicized to the relevant parties.

**PART III Redline version of Mutual Fund  
Instruction**

**Draft revised instructions to conform to proposed changes in the securities law**

A-1. February 2001

A-1.

**A-1. Instructions No. ( ) of the  
Year \*\*\***

**Mutual Fund Instructions**

**A-1. Issued by the Jordan Securities Commission  
pursuant to the provisions of Articles \*\* of the  
Securities Law No. ( ) for the Year \*\***

Issued by the Jordan Securities Commission pursuant to the provisions of  
Articles of the Securities Law No. ( ) for the Year

**Article (1)** These Instructions shall be known as the . . . .

**Article (2)**

1. No person shall offer interests in any arrangement whereby the interests of participants are pooled for the purpose of investing in financial assets, profits are shared and the day-to-day management of the arrangement is centralized unless

a. It is organized as a mutual fund under Chapter 7 of the Securities Law; or

b. It is licensed by the Commission as an investment company or collective investment pool.

2. This restriction shall not apply to

- banks licensed under the Banking Law,
- insurance companies, venture capital companies with fewer than — investors, or
- any collective investment pool or fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian.

**Article (3)**

a) The term "investment fund" as used herein refers to a mutual fund or investment company licensed by the Commission pursuant to the provisions of Chapter 7 of the Securities Law of \_\_\_\_\_.

b) Terms and expressions used in these Instructions shall have the meanings ascribed thereto in the Law unless otherwise indicated by context.

**Article (4)** The Commission shall assume the following authorities in addition to any authorities stipulated in the Law or the regulations and instructions issued pursuant thereto:

- a) Approving the registration of the fund and regulating the activities of the project.
- b) Approving and revoking the registration of non-Jordanian investment projects, or suspending their activities in accordance with these Instructions.
- c) Suspending the activities of funds which are not registered in accordance with the Law and these Instructions or funds which are not authorized to operate, and taking the necessary measures to compel such funds to rectify their position or be liquidated.
- d) Taking the necessary measures to prevent or cease any violations of the Law, and the regulations and instructions issued pursuant thereto including ordering liquidation of the fund.
- e) Requiring the investment manager or the investment trustee of any project to submit guarantees and sureties deemed necessary for the protection of the investors' rights at risk.

**Article (5)** a) The investment fund is an investment tool by which the investment manager, manages and invests funds of others on a contractual basis.  
b) An application to establish the fund shall be submitted to the Commission in writing in accordance with these Instructions.

**Article (6)** a) The objectives of the company shall be limited to investing its funds and the funds of others in the various types of securities in accordance with stated policies.  
b)  
c) The company's investments shall be managed by an investment manager who is contracted with by the fund Board of Directors, subject to approval by the fund shareholders.

**Article (7)** a) The fund's minimum capital requirement shall be five hundred thousand Jordanian Dinars or its equivalent in other currencies.  
b) The minimum capital requirement of the closed-end fund upon registration shall be than five hundred thousand Jordanian Dinars or its equivalent in other currencies.

**Article (8)** An application to establish the fund shall be submitted to the Commission in writing on the standard form prepared for this purpose with the following attached therewith:

- a) The investment fund's charter
- b) The following data and information relating to the first investment manager and the investment trustee, if any:
  1. A brief description of the background and activities of each.

2. Investment funds managed or monitored by him in the past and at present.
  3. The securities owned by each.
  4. The names and positions of senior executive managers at each.
  5. The names and resumes of the certified natural persons who will carry out the fund's investment management activities and the persons who will carry out the fund's investment trusteeship activities.
  6. The audited annual and mid-annual financial data for the last two fiscal years or the annual and mid-annual financial data since the establishment of the company up to the date of submitting the application.
- c) Any additional information required by the Commission.

**Article (9)** The Commission shall issue a decision approving or rejecting the fund's establishment application within thirty days as of the date of submitting the application. The rejection decision shall be justified.

**Article (10)** The fund's charter shall include the following:

- a) The fund's name.
- b) The fund's term.
- c) The fund's type.
- d) The fund's objective.
- e) The capital of the closed-end fund or the minimum capital of the open-end fund.
- f) The value of the investment unit upon establishment.
- g) A clear and accurate statement of the fund's investment policy.
- h) The criteria for diversification of the fund's investments.
- i) The fund's management policy and decision-making methods.
- j) The names of the investment manager and the investment trustee, the number and date of their registration with the Commission, their resumes, and the fees, remuneration and commissions which each of them will receive from the fund and the basis of calculating such and due dates thereof.
- k) The fund's profits distribution policy.
- l) The basis for calculating the fund's net assets.
- m) The dates of calculating and announcing the value of the investment unit of the open-end fund provided that such shall be done at least twice a month.
- n) The method of calculating the purchase price and the redemption price of the investment unit of the open-end fund.
- o) The periodical dates and procedures for issuing and redeeming the fund's investment unit.
- p) The nature and periodicity of information to be announced by the fund.
- q) Conditions for the voluntary liquidation of the fund and procedures thereof.

**Article (11)** Upon completion of the fund's establishment procedures, the approval of the fund's charter, and payment of the required fees, the Commission shall register the fund in a

register designated for this purpose and shall issue the fund's registration certificate.

- Article (12)** a) Before issuing and offering the investment units of the fund the investment manager shall prepare and register with the Commission a prospectus for such units upon acquiring the Commission's approval.
- b) The prospectus of the fund's investment units shall include, but not necessarily be limited to, the following:
1. The fund's name, type, capital, term, objectives, and the number and date of its registration with the Commission.
  2. A thorough summary of the fund's charter.
  3. The conditions and procedures for subscribing in the fund's investment units.
  4. The method of allocating the investment units of the closed-end fund if the subscribed units exceed its capital.
  5. Name and address of the investment manager and the investment trustee, if any, and their resume, including their previous experience in managing and monitoring investment funds.
  6. Names of the natural persons overseeing the investment management and trusteeship of the fund and their resume.
  7. The fund auditor name, the date and number of his license, his fees and the due dates of such.
  8. Fees, remuneration and commissions of each of the investment manager and the investment trustee, the basis of their calculation and the due dates thereof, and any other expenses incurred by the fund.
  9. A thorough explanation of the risks which may result from investing in the fund's investment units.
  10. The periodic reports which will be provided to the holders of the investment units, and the nature and dates of such.
  11. The effect of the tax legislation in force on the fund's activities, and the fund's profits and their distribution.
  12. The methods of fulfilling the fund's obligations towards others.
- c) Any potential subscriber to the fund's investment units shall be provided with a copy of the fund's prospectus and charter prior to receiving his application.

- Article (13)** Subject to the provisions of the Companies Law in force, the company's charter shall include the following:
- a) A clear and accurate statement of the company's investment policy.
  - b) The name of the investment advisor certified as an investment manager and the investment trustee, if any, upon commencement of operations, the number and date of their registration with the Commission, their resumes, and the fees, remuneration and commissions which each of them will receive from the fund and the basis of calculating such and due dates thereof.
  - c) The company's dividends distribution policy.
  - d) The basis for calculating the company's net assets.

- e) The dates of announcing the value of the shares of the variable capital company provided that such shall be done at least twice a month.
- f) The method of calculating the purchase price and the redemption price of the shares of the variable capital company.
- g) The periodical dates and the procedures of issuing and redeeming the shares of the variable capital company.
- h) Conditions and procedures for the voluntary liquidation of the company.
- i) The criteria for diversification of the company's investments.
- j) The company's management policy and decision-making methods.
- k) A clear and accurate statement of the rights of the company's shareholders.
- l) The nature and periodicity of the information which the company shall announce and provide to the shareholders.
- m) The rules and procedures for amending the charter and the by-laws.
- n) The cases which the general assembly shall be summoned and the authority of the general assembly in ordinary and extraordinary meetings.

**Article (14)** Subject to the provisions of the Issuance & Registration of Securities Instructions in force, the company shall include the following additional information and data in the prospectus:

- a) The name and address of the investment manager and the investment trustee and their resume, including their previous experiences in managing and monitoring projects.
- b) The names of the natural persons overseeing the investment management and trusteeship of the company and their resume.
- c) Fees, remuneration and commissions of each of the investment manager and the investment trustee, the basis of their calculation and the due dates thereof, and any other expenses incurred by the company.
- d) The items stated in the charter in accordance with Article (13) of these Instructions together with a thorough brief of each article.
- e) The effect of the tax legislation in force on the company's activities and profits.
- f) The market or markets on which the shares of the fixed capital company will be listed.

**Article (15)** The Commission may request a clarification of any information stated in the charter or any additional financial information or data as deemed appropriate for the investor protection.

**Article (16)** The fund's capital shall be divided into investment units with equal entitlements. Owners of such units shall be liable only in the amount of their purchase price for their shares in the fund.. Payments for the investment units shall be in cash in one installment upon subscription,



- Article (17)** a) If the closed-end fund is not able to cover its minimum capital, the investment manager shall submit a written application to the Commission to cancel the fund's registration or grant an appropriate extension period for re-issuing the unsubscribed investment units. The Commission may issue the appropriate decision within thirty days from the date of submitting the application. The application for establishing the fund shall be deemed cancelled at the end of the extension period if the minimum capital required pursuant to these Instructions is not covered. If the registration of the closed-end fund is canceled, the investment manager shall reimburse the subscribers the full amount invested plus any interest accrued thereon.
- b) If the open-end fund is not able to cover its minimum capital, the investment manager shall submit a written application to the Commission to cancel the fund's registration or grant an appropriate extension period for re-issuing the unsubscribed investment units. The Commission may issue the appropriate decision within thirty days from the date of submitting the application. The application for establishing the fund shall be deemed cancelled at the end of the extension period if the capital required pursuant to these Instructions is not covered. If the registration of the open-end fund is cancelled, the fund shall be placed under liquidation.
- Article (18)** a) Upon completing the procedures of offering and allocating the investment units of the closed-end fund, the investment manager or underwriter shall inform the Commission of such in writing.
- b) The Commission shall issue a decision authorizing the closed-end fund to start operations after establishing the soundness of the procedures for issuing, subscribing and allocating the investment units.
- Article (19)** The project shall not carry out its activities without written permission from the Commission to commence operating.
- Article (20)** The open-end fund shall commence issuing and redeeming its investment units after the issuance of its registration certificate by the Commission, and shall cover its minimum capital requirement within three months as of the date of its registration.
- Article (21)** a) The closed-end fund investment units shall be listed in accordance with the Listing of Securities Instructions in force.
- b) The investment manager of the closed-end fund shall make weekly announcement of the net value of the fund's investment units.
- Article (22)** The closed-end fund may be transformed into an open-end fund if its charter so permits and the holders of a majority of its shares approve, provided it makes the required adjustments in accordance with the provisions of the Law and these instructions and subject to the following:

- a) Two months prior to the set date for transformation, the Commission is provided with the new charter and the new prospectus for approval in accordance with these Instructions.
- b) The holders of the investment units are provided with the new charter and the new prospectus prior to the meeting at which they are called upon to approve the transformation;
- c) The transformation is approved by the Commission.
- d) The transfer shall be effective only after the issuance of a decision by the Commission in this regard.
- e) The listing of the investment units of the closed-end fund shall be cancelled on the day preceding the announced transformation date.

**Article (23)** a) Issuance and redemption of the investment units of the open-end fund or the variable-capital company shall be based on the net value of their respective assets.

b) Subject to the Commission's prior approval, the open-end fund or the variable-capital company may stop issuing and/or redeeming its investment units or shares if the value of the investment unit or share is undeterminable, but the Commission shall not approve such suspension of redemption or sale unless the reasons therefor are extraordinary and the interests of investors are served thereby. .

**Article (24)**

**Article (26)** a

**Article (27)**

**Article (28)** The investment manager and the investment trustee shall maintain accounting records for performing their activities for each project they manage or supervise in an organized and sound manner, in accordance with the accepted accounting standards and shall maintain separate accounts for each project.

**Article (29)** The investment trustee of any project may not own any of its investment units or shares, or be party to any dealing in securities relating to the project.

**Article (30)** The investment manager shall not have any direct or indirect interest in any dealing he carries out for the project including the following:

- a) Investing in securities issued by the project or by any subsidiaries or affiliate companies thereof or any securities underwritten thereby.
- b) Selling and purchasing for the project's account through him or through brokerage companies related thereto.
- c) Collecting payments or fees from the project which are not provided in the charter.
- d) Being a party in any dealing in securities carried out for the account of the project.

**Article (31)** No person may assume the investment management and investment trusteeship activities for the same project.

**Article (32)** The project shall not:

- a) Invest more than 5% of its assets in securities issued by one issuer except for securities issued by the Government or the Central bank or guaranteed by any of them.
- b) Borrow more than 10% of the value of its assets.
- c) Subscribe in more than 10% of the securities issued by one issuer.
- d) Invest more than 10% of its assets in securities issued by other investment funds.
- e) Carry out short sale of securities.
- f) Invest its funds in securities issued by its investment manager or any affiliate company thereof.

**Article (33)** At the end of the fiscal year, the value of the project's assets shall be calculated on the basis of the assets market value. The value shall be calculated on the same basis also at the date of each issue or redemption. The market value of the investment units or listed securities shall be the last closing price. The market value of the investment units of the open-end fund and the shares of the variable capital company shall be the best price anticipated if the units or shares were sold on the date of valuation. The net value of the project's unit or share shall be the ratio obtained by dividing the amount of the project's liabilities less its assets over the number of the issued units or shares.

**Article (34)**

- a) The project's accounts shall be audited by an auditor who meets the special requirements for auditors of entities subject to the Commission's monitoring. The auditor shall operate in accordance with the approved auditing standards pursuant to the Instructions in force.
- b) The fund's investment trustee or the company's Board of Directors, as the case may be, shall appoint an auditor and set his fees. In circumstances where it deems necessary, the Commission may appoint another auditor and set his fees which shall be paid by the concerned project.
- c) The project auditor's term shall be for one year, and shall be renewable.
- d) The auditor shall provide the Commission, the project's investment manager, the investment trustee, and the company's Board of Directors with the annotated audit reports.

**Article (35)**

- a) The securities comprising the investment fund's portfolio may not be retained in the custody of the fund but shall be maintained in the custody of a licensed custodian or investment trustee. Every contract or renewal of contract between the fund and the third-party custodian or trustee shall be submitted to the shareholders at the annual general assembly for their approval.

- b) A custodian or investment trustee shall be replaced in any of the following cases:

1. Its liquidation.
  2. Revocation of its license.
  - 3.
  4. Upon the custodian's or trustee's written request provided it is justified and submitted in accordance with these Instructions.
- b) Upon the occurrence of any of the events stated in subparagraphs (1) and (2) of Paragraph (a) of this Article, the activities of the fund or the company, as the case may be, shall be suspended until a new custodian or trustee shall have been appointed and approved on an interim basis by the fund's investment manager or Board of Directors pending submission to the shareholders. An interim appointment of a custodian or trustee shall be subject to approval by the Commission.
- c)
- d) If the fund's investment manager or Board of Directors are unable to select a new custodian or investment trustee within three months, the matter shall be presented to the Commission which may take one or more of the following measures:
1. Select a new custodian or investment trustee. .
  2. Suspend the activities of the project until contracting with a new custodian or investment trustee.
  3. Liquidate the fund provided that the Commission shall appoint a liquidator, or take the feasible measures to liquidate the company.

- Article (36)** a) A custodian or investment trustee who intends to cease carrying out his activities as custodian or investment trustee for a project shall submit a justified written request to the fund's investment manager or the company's Board of Directors three months in advance and shall send a copy to each of:
1. The Commission.
  2. The company's investment manager.
  3. The auditors.
- b) The fund's investment manager or the company's Board of Directors shall announce the intended change in two local newspapers.
- c) The custodian or investment trustee who intends to cease carrying out its activities in accordance with Paragraph (a) of this Article shall continue to carry out its activities until a new custodian or investment trustee is appointed or until the fund or the company, as the case may be, is liquidated.
- d) The procedures and conditions stated in Paragraphs (b) and (c) of this Article shall apply in the case of terminating the activities of the custodian or investment trustee in accordance with the agreement concluded between it and the fund.

- Article (37)** a) The departing custodian or investment trustee shall be liable for compensating investors and others for any damages resulting from negligence or from violating the

- Law or the instructions or the project's charter and investment policy during assumption of his duties.
- b) The departing custodian or investment trustee shall submit to the new custodian or investment trustee all the records, documents, accounts and data of the project.

- Article (38)**
- a) The new custodian or investment trustee shall be responsible for all custodial or investment trusteeship activities carried out after he signs the project's charter.
  - b) The new custodian or investment trustee shall be entitled to the fees specified in the project's charter or the fees he agreed to.

**Article (39)** After concluding the procedures for replacing the custodian or investment trustee, the Commission shall initiate the project's activities that are suspended and shall make an announcement of such.

- Article (40)**
- a) The company's investment manager may be replaced in the circumstances stipulated in the charter and the agreement concluded between the investment manager and the fund , provided the incumbent investment manager shall not cease his activities unless after the new investment manager assumes his post.
  - b) The company's investment manager shall be replaced in case of its liquidation or the revocation of its license. In any of these two events, the company's activities shall be suspended until the Board of Directors contracts with a new investment manager.
  - c) The new investment manager shall be entitled to the fees of the investment manager specified in the company's charter or the fees he agreed to. The investment manager shall be responsible for his activities as of the date of assuming his duties.

- Article (41)**
- a) The Commission may approve the registration with the Commission of any non-Jordanian Mutual Fund project and may permit such to carry out its activities in the Kingdom in accordance with these Instructions.
  - b) Non-Jordanian Mutual Fund shall mean:
    - 1. Any fund established and registered outside the Kingdom.
    - 2. Any foreign company as determined in the Companies Law, provided that the objective of the fund or the company is similar to the objectives stipulated in Article (3) of these Instructions.
  - c) A non-Jordanian Mutual Fund may take any of forms permitted under the laws of the Kingdom or other forms in accordance with the law of the country of establishment and registration.

**Article (42)** Any person intending to carry out offering or marketing activities for a non-Jordanian Mutual Fund inside the Kingdom or provide such services from the Kingdom shall acquire the Commission's prior approval. The Commission may suspend any activity in violation of this Article.

- Article (43)** a) An application to register a non-Jordanian Mutual Fund shall be submitted to the Commission attached with the following:
1. Evidence that the project is registered abroad and that it is subject to a monitoring entity in the country of establishment and registration.
  2. The project's regulations and prospectus.
  3. The latest annual report and the most recent semi-annual reports, if any.
  4. Detailed information about the project's agent in the Kingdom.
- b) The Commission may approve the registration of the non-Jordanian project provided the management of the non-Jordanian project and its investment policy ensures the protection accorded to investors pursuant to the Law and the regulations and instructions issued pursuant thereto.
- Article (44)** a) A non-Jordanian Mutual Fund project shall appoint a bank operating in the Kingdom or an investment manager licensed by the Commission as an agent to fulfill the project's obligations towards investors including any compensation they may be entitled to.
- b) The project's agent described in Paragraph (a) of this Article shall undertake the notification procedures and receive notices on behalf of the project, and represent it in any administrative or judicial procedures including representing it before the investors, the Commission, the Bourse, and the Securities Depository Center, and shall undertake the announcement and disclosure requirements in the Kingdom in accordance with the Law and the regulations and instructions issued pursuant thereto. The agent shall also undertake the following:
1. Provide the Commission with the charter of the non-Jordanian Mutual Fund project and publish such in two local newspapers in the Kingdom.
  2. Publish detailed information on the legal form of the non-Jordanian Mutual Fund project and the duties of the agent in the local newspapers.
  3. Publish its annual and semi-annual financial data in the local newspapers and provide such data to the public free of charge, and to the Commission.
  4. Promptly inform the Commission of any amendments or changes to the project's charter and proclaim such after the Commission's approval.
  5. Publish the issuing and redemption prices periodically, at least twice a month.
- c) All publications and announcements shall be in Arabic. Each announcement shall include the name and address of the project's agent.
- Article (45)** a) The fund's liquidation, whether voluntary or obligatory, shall be conducted under the supervision and monitoring of the Commission.
- b) The fund shall be voluntarily liquidated in the circumstances stipulated in its charter.

- c) The fund shall be subject to involuntary liquidation upon a decision of the Commission in any of the following events:
  - 1. The expiration of the fund's term.
  - 2. The suspension of the fund's activities without any legitimate reason.
  - 3. The liquidation of the fund's investment manager or the revocation of its license.
- d) The fund's custodian or investment trustee shall undertake the task of the fund's involuntary liquidation. Otherwise, if this may not be realized, the Commission shall appoint a liquidator for the fund.
- e) Upon concluding all the fund's liquidation procedures, the Commission shall issue and announce a decision to rescind the fund. The fund shall be cancelled from the Investment Funds Register.

**Article (46)** The company shall be liquidated in accordance with the provisions of the Companies Law No. (22) of 1997.

- Article (47)**
- a) The open-end fund or the variable capital company shall maintain a specific ratio of cash reserves of the net assets value sufficient to fulfil the redemption requirements. Such ratio and the manner of its calculation shall be determined by instructions to be issued by the Commission for this purpose.
  - b) The liquid cash shall include cash in the register, bank accounts, treasury bills and government bonds.

- Article (48)**
- a) In case of bankruptcy or liquidation of the investment manager, the custodian or the investment trustee, the assets of the Mutual Fund project shall not be included in its bankruptcy liabilities or assets. Creditors of the investment manager, custodian or investment trustee shall have no claim to the project's assets.
  - b) In case of the attachment of the investment manager, custodian or investment trustee property, such attachment shall not include any Mutual Fund project managed or supervised by such.

**Article (49)** The provisions of Articles (28, 29, 31, 33, 41, 44) of these Instructions shall apply to the investment company.

**Article (50)** These Instructions shall be published in the Official Gazette, and shall be announced in the media and shall be publicized to concerned parties.

## **A-1.PART IV Redline version of Fee Regulation**

**Draft revised regulation to conform to proposed changes in the securities law**

A-1.February 2001

A-1.Regulation No. () for the Year

**The Jordan Securities Commission Fees Regulation  
Issued pursuant to Articles () and () of the Securities Law No. () for the  
Year**

**Article (1)** This Regulation shall be known as (The Jordan Securities Commission Fees Regulation for the Year 1999) and shall come into effect as of the date of its publication in the Official Gazette.

**Article (2)** The terms used in this Regulation shall have the meanings ascribed thereto in the Securities Law of \_\_\_\_\_ unless otherwise indicated by context:

A.

B.

C. **Article (3) a) The Commission shall charge a fee for the registration of securities as follows:**

1- (0.003) three per thousand of the nominal value of the securities issued in the Kingdom, except for bonds, provided that the fee charged shall not exceed fifty-thousand Dinars.

2- (0.0005) five per ten-thousand of the nominal value of the bonds issued by Jordanian public shareholding companies, provided that the fee charged shall not exceed five-thousand Dinar.

b) The Commission shall not charge any fee for the registration of bonds issued by the government or any official public corporations or public corporations or municipalities.

**Article (4)** The Commission shall charge an annual fee for the listing of securities on the Bourse as follows:

1- (0.0002) two per ten-thousand of the nominal value of the securities issued in the Kingdom, except for bonds, provided that the fee charged shall not exceed two-thousand Dinars.



2- (0.0002) two per ten-thousand of the nominal value of the bonds issued by Jordanian public shareholding companies , provided that the fee charged shall not exceed two-thousand Dinars.

3- Two hundred fifty Dinars flat fee for each issue of bonds by the government or any official public corporations or public corporations or municipalities.

- Article (5)**
- a) **The Commission shall charge from parties dealing in securities on the Bourse a fee for such dealing at the rate of (0.0005) five per ten-thousand of the market value thereof.**
  - b) **The Commission shall not charge any fee for dealing in bonds on the Bourse.**

- Article (6)**
- a) **The Commission shall charge a flat fee for the licensing and the annual renewal of licensing of financial services companies and certified financial professionals as follows:**

<u>Financial services activities</u>	<u>Fee per Dinar</u>
1. The Underwriter	2000
2. Investment Management, Management of Primary Issues or Depository Services	1000
3. Financial Brokerage	500
4. Financial Advisory or Investment Trusteeship	250
5. Certified Financial Professional	25

- b) **If the Board decides to grant a license to practice any of the financial services activities other than those listed in Paragraph (a) of this Article, the Commission shall charge a licensing or renewal fee for any of such at the amount of five-hundred Dinars.**

- Article (7)**
- The Commission shall charge fees for the registration, listing, and dealing in non-Jordanian securities registered, listed or dealt in the Kingdom equal to the fees stipulated by the provisions of this Regulation or the fees charged by the country issuing such securities subject to reciprocal treatment.**

- Article (8)**
- The Commission shall charge a flat fee of one thousand Dinars for the registration of investment funds.**

- Article (9)     The Commission may charge fees for services provided for others whether direct services, or printed, visual, audio or copied data or information, the amount of which shall be determined by instructions issued by the Board for this purpose.**
- Article (10)   The Commission shall issue the necessary instructions for the implementation of the provisions of this Regulation.**

## APPENDIX C

### Proposed revisions to the Companies Law of 1997

**[Note:** *These proposals are based on an unofficial English translation of the Companies Law of 1997 taken from the website [www.mit.gov.jo](http://www.mit.gov.jo).]*

#### Article 2

It is strongly recommended that the definition of "market" be deleted. The Securities Law will define market, and the Commission may have occasion to amplify the definition of market through regulations. These could conflict. There is no need for a definition in the Companies Law.

#### Article 4

Why should the main office be required to be in Jordan? It may foreclose establishing multinational companies in Jordan. The limitation does not appear to serve any useful purpose.

#### Article 6

This article is restrictive and should be revised to permit more variety of organizational forms, especially a form analogous to the "closed corporation" or "private limited company" in other countries.

The Companies Law provides for a Limited Liability Company, which is essentially a partnership. The concept may have been taken from U.S. law, where a new form of enterprise organization called the Limited Liability Company, was devised in the late 1980s to allow for pass-through tax treatment similar to that afforded partnerships. Under U.S. tax law, to qualify for the pass-through treatment, the enterprise must **lack** at least 2 of the following 4 characteristics:

- continuous existence
- transferability of ownership interests
- centralization of management
- limited liability of investors.

Yet, all four of these characteristics are critical for start-up businesses in order to attract capital even from a limited group of investors.

To facilitate new business formation, the Companies Law should provide for a suitable organizational form that includes **all** of the 4 characteristics listed above. The proposed securities law (AMIR draft) would provide authority in the Commission to soften the requirements applicable to start-up companies raising capital from a limited number of outside investors. Together, the climate for small business development in Jordan would be improved.

Whether the new form of organization is a "private shareholding company" or something else would not seem important. It would be important, however, that the Companies Law permit

easy conversion from one form to the other. Among other things, this would require amending existing provisions that restrict buy-backs of a company's own shares, etc.

It is suggested that consideration be given to providing for a single form of shareholding enterprise that could be either private or public (in the conventional sense of that distinction). When the enterprise seeks to raise capital from public investors, it comes within the disclosure and other requirements of the securities law. The rules applicable to governance, etc. would not need to distinguish between companies with public investors as shareholders and those without.

### **Part Three, Articles 49 - 52 deal with Joint Ventures**

These provisions would appear to be preclusive without any compensating advantage. One questions whether these provisions are needed. Essentially, they declare joint ventures to be silent partnerships, and, if so, the partnership provisions in the Law would seem to be adequate, or could be amended, to deal with the situation. The difficulty arises because they may be construed to preclude the formation of a joint venture corporation--at least as they appear in the English translation from which I am working.

Foreign investors teaming with local investors may prefer to organize in some organizational form that assures limited liability--e.g., a corporation. Even two Jordanian companies may find it more appropriate to collaborate, for example, on a research project, in the form of a jointly owned corporation. If in either case the joint venture succeeds, the joint venturers might want to take the venture public.

### **Part Four, Limited Liability Companies**

#### Article 58

subparagraph b)

Here, as in other provisions of this Law, the Controller is involved in appraisals of value of in-kind contributions to capital. While the concept of verifying non-cash valuations is valid, it does not seem ideal to have a government official involved in reviewing the valuations. It would seem preferable to impose the accountability of the appraiser for bias, serious error or nonprofessional conduct directly to investors. Injured investors could be afforded an opportunity to challenge valuations in court or before some other suitable tribunal or be provided damage remedies. (Hearings on valuation challenges might even be before the Controller, serving as a hearing officer.)

The issue raised is especially acute under subparagraph c), where the valuation is of intangible, intellectual property rights.

### **Part Five, Limited Partnership in Shares**

Articles 77-89 authorize formation of a hybrid limited partnership and corporation. Article 89 provides that the provisions applicable to public shareholding companies apply except to the extent there are specific provisions in this Part.

It is not clear why this form of organization is needed or what purpose it serves that cannot be served by either a partnership or a corporation. As a result of Article 89, the limited partnership in shares authorized under this Part is subject to the same limitations that handicap public shareholding companies under the Law (see below).

Article 78

This provision, in the English version from which I worked, could be construed to prevent a limited partnership in shares from issuing multiple classes of shares. In addition, a limited partnership in shares is prohibited from selling to public investors more than double the value of the general partners' investment. These restrictions preclude a variety of financing options to the enterprise, and it is not clear what they accomplish. If investors are offered full and fair disclosure, they can appraise the risks for themselves.

**Part Six, Public Shareholding Companies**

If the word "public" were deleted from the provisions of this Part 6, the effect would be to enable the formation of shareholding companies, without limitation as to whether they are public or private.

If the recommendation were accepted, Article 90(a) would need to be deleted: It requires at least 2 "promoters" and defines the company in terms of "shares which are negotiable in financial papers markets and may be traded . . ."

Article 92(c)

As worded, this provision appears to require the personal appearance of the organizers. This would appear to preclude organizing by proxy. If so, it would impede foreigners or others not in Amman from organizing companies under Jordan law. It is not evident how such an impediment serves the interests of Jordan.

Article 94

As a matter of statutory "tone", consideration should be given to deleting the references to the Minister. The functions involved probably are, and should be, purely ministerial; the spirit should be engendered that organizing a business is a routine matter--not dependent on government discretion. The functions assigned should rest with the Controller alone.

Article 95

(a) The one Dinar requirement seems unnecessarily restrictive. If the objective is to assure that all shares have the same par value, the objective should be questioned. Why should all shares have the same par value? Does it mean there can be only one class of shares?

Under the provisions of this section, it would appear that the company would be disqualified from floating additional shares at less than the par value of existing shares. Suppose a company falls on hard times, the market price of its shares falls below par (one Dinar or otherwise), yet there are investors who, aware of the risk, are willing to take a chance on the company and invest new money. Should the company be forced to fail?

(b)-1 & (b)-2 These provisions appear to have the effect of requiring subscribed capital to be equivalent to authorized capital. If so, it is an undesirable constraint. First, it prevents the issuance of stock options. To provide shares upon the exercise of options, there should be available authorized shares that have not been issued (subscribed). Second, for the same reason, it hampers management's ability to introduce shareholder dividend reinvestment plans or

employee stock ownership plans. These, too, would be funded by authorized but unissued shares. Third, it makes it more difficult for management to negotiate an acquisition based on shares.

#### Article 98

The requirement for issuers to maintain a shareholder register may be inconsistent with the depository scheme contemplated by the SDC. Moreover, as the practice has evolved, companies are slow and inefficient in managing share transfers. It would be better to professionalize the function, whether through the SDC or through independent registrars and transfer agents. While subparagraph (c) appears to contemplate such a situation for listed companies, it should apply to all companies with a significant number of outside shareholders.

#### Article 99

It is risky to specify percentage limitations on ownership for promoters or organizers of the company. If the suggestion made above for the deletion of the limitation "public" from the shareholding company authorized under this Part of the Law is accepted, the requirement for a minimum of 50 promoters in subparagraph (a) and the 75% limitation in subparagraph (b) would be inapplicable.

Even with respect to a publicly owned company, it does not seem necessary for the Law to define the degree of "public-ness" required. Listing requirements of the stock exchange could set minimum requirements for the percentage of ownership that must be in public hands--as distinct from in the hands of promoters. If investors are willing to invest notwithstanding the dominant ownership of the promoters, however, they should be allowed to do so. Full disclosure requirements will assure that they receive the information they require to make an informed decision.

Subparagraph (c) limits purchases by promoters of shares being offered to the public. Whether this limitation is desirable if the distinction between public and private companies proposed is adopted is a matter of choice. The conception of a corporation that I propose is one where the company is free to add to its capital through securities offerings at any time and through whatever means (i.e., private placement, public offering, bonds, other debt paper, shares, different classes of shares, commercial paper, etc.) the company chooses. The subparagraph (c) limitation on promoters' purchases is not useful under this concept.

#### Article 100

The two-year holding requirement for promoters is unnecessarily inhibiting. If there is full disclosure, investors would be alerted to the fact that the insiders are selling out at an early stage of the company's development. At the same time, the mere fact that a promoter is interested only in a short-term commitment to the enterprise does not mean that the promoter has not made a contribution to launching it. For the Law to prejudge these situations is restrictive and risks precluding useful short-term investments.

If the Securities Commission decides to provide an exemption from prospectus and other requirements for private placements or small offerings, then some sort of a limitation would be needed on resales of securities by purchasers under the exemption. Otherwise the exemption could be used to circumvent the disclosure requirements by relying on an exemption and then reselling the securities. A two-year holding period, thereby, would lessen the enthusiasm for such

indirect public distributions of the securities. But no provision to this effect is needed under the Companies Law.

#### Article 103

It is a policy question as to whether it is advisable to have a government record of everyone who bought shares in a new company. On its face, this provision might discourage investors from participating in share purchases of new companies--at least in their own names.

#### Article 109

In subparagraph (a), as in Article 58, the Controller and Minister are involved in valuation of non-cash contributions to capital. While it is desirable to have some protection for small investors and minority shareholders in connection with valuations in these situations, it is recommended that another method be employed.

If the role of determining or approving value is assigned to a government ministry, it will inevitably follow that the government agency, under pressure to decide according to published standards, will have to formulate a general rule for such valuations. Any such rule will perform be arbitrary as applied to any specific situation.

It would be preferable to have some independent appraiser measure value in the specific circumstances, and assure that the appraiser is subject to accountability for the value set. The accountability could be to the shareholders individually and collectively, in a court or some other forum, as provided in subparagraph (c) (only without the requirement for an antecedent special shareholders meeting). As suggested above, the arbiter in a challenge could be the Controller, but that role for the Controller is preferable to his having to establish rules for valuations.

Subparagraph (b)'s requirement for approval at a special meeting of shareholders appears to be cumbersome, time-consuming and protracted. The right of objection established in subparagraph (c) is desirable, but it does not seem necessary that the objection be stated at a shareholder meeting. Why wouldn't a letter to the company stating the shareholder's objection to a valuation be adequate?

### **Chapter 6, Decreasing Share Capital**

#### Articles 114 - 115

The requirements for a special meeting of shareholders and for time-consuming procedures by the Controller in order to decrease the unsubscribed portion of the authorized capital creates a limitation on management without any compensating advantage to shareholders. These provisions are principally for the benefit of creditors, and creditor interests can be protected in other ways that don't restrict management unnecessarily. The key is the authorized capital. Once shareholders have authorized the number of shares that may be issued, management should be permitted the latitude to issue shares up to that limit or to reduce the number of outstanding shares through repurchase.

It is questionable that unsubscribed share capital really provides any effective protection for creditors. If Articles 114 & 115 were deleted, creditors can be expected quickly to adjust to the fact that unsubscribed shares are not a source of funds on which they should rely when extending credit to a corporation. Creditors can protect themselves from unacceptable credit risks in various

ways, many of which would be more effective than relying on the money that would be derived by the company through the sale of shares not yet sold.

Article 116

In light of the broad definition of "bond", restricting the issuance of bonds to public shareholding companies is unnecessarily restrictive. Closely held companies and partnership-type organizations should also be permitted to raise external debt through the issuance of bonds, debentures or other instruments that would fall within the definition of "bond".

**Board of Directors**

Article 132

It is submitted that a 4-year term of office is too long. Director accountability would be enhanced by a shorter term of office.

Article 133

One disadvantage to requiring share ownership in the company as a condition to election as a director is that it precludes inviting outside directors to serve on the board. Since the company articles can set the number of qualifying shares, however, this provision may not be too important.

Article 138

Reports of shareholdings by board members should be filed with the Securities Commission in addition to, or instead of, with the Controller. It is also suggested that the requirement be extended to company officers and their immediate families, as well as directors.

Articles 141 - 143

The reporting requirements set forth in these provisions are overlapping with the requirement proposed in the AMIR draft securities law. While there is no apparent inconsistency between the two sets of reporting requirements, if both the Controller and the Securities Commission have responsibilities for enforcing reporting requirements, inconsistencies may develop in the future. It is suggested, therefore, that some reference be made to the reporting requirements of the Securities Law and that the Commission's rules, regulations, instructions and interpretations are to be dominant.

I suggest that a provision to the effect that

*Companies shall publish and file annual and periodic reports, including audited financial statements, in such form and at such times as shall be prescribed under the Securities Law and the rules, regulations and instructions issued thereunder by the Securities Commission.*

At the same time, the reports required under Article 143 to be sent to the Controller would appear to be of interest to that office and should continue.

Article 151



The authority under this provision for the Controller/Minister to amend a company's by-laws allows a significant form of governmental intervention in the company's affairs. It presumes that the Controller/Minister are best able to decide what is in the shareholders's interests. I would expect that this provision is troubling to sophisticated investors, especially foreign investors, who seek to set up companies in Jordan employing financing or organizational methods that are innovative but unorthodox.

#### Article 152

It seems unnecessary, and restrictive, to prescribe by statute that the chairman of the board must be a full-time employee of the company and its president. Why not leave these matters to the company to decide for itself? The same criticism applies to Articles 153-155.

#### Articles 157, 158 & 166

Consideration might be given to providing, in lieu of the current version of Article 158, that the unauthorized disclosure of confidential company information shall be deemed "fault" and actionable within the meaning of Article 157. Similarly, abusive use of inside information under Article 166 might be dealt with similarly; i.e., by defining such conduct as "fault" for purposes of Article 157.

#### Article 162

The desirability of setting compensation limits in the statute is questioned. Companies should be free to compete for managerial talent by paying higher salaries. This provision precludes performance related salary, which is a useful tool to provide incentives to management.

#### Article 168

This article raises the fundamental policy question as to what should be the relationship between the government and the company. At this stage in the development of the Jordanian court system, it may be useful to have the Controller/Ministry serve as a watchdog of shareholder interests. On the other hand, as noted in other contexts, government perforce is required to operate according to general rules, and these general rules can be rigid and preclude needed flexibility. An alternative means to provide some protections for shareholders is by requiring full and fair disclosure. Shareholders, aware of the facts, can proceed against wayward managers on their own, probably more realistically in the current context, they can sell their shares. While this will result in a loss to the shareholders, it is likely that if management has failed, shareholder loss is inevitable. Investors can never be shielded from such investment risks, so they need to be educated to understand them before they invest.

### **Meetings of the General Assembly**

Articles 169 - 176 deal with general and special meetings of shareholders. Because these provisions were deemed complete and adequate on the subject, the AMIR draft securities law does not include provisions specially addressed to disclosure related to shareholder meetings.

It would seem prudent to avoid possible conflicts from arising between the Securities Commission and the Controller of Companies, however. A policy decision should be made as to where to lodge primary responsibility with respect to shareholder meetings. If it is decided to

lodge that responsibility with the Commission, then it is suggested that the Companies Law provisions be limited to the substance of the meetings. Provisions regarding notice of meetings, reports by management, etc. should then be shifted to the Securities Law.

In either event, it is strongly urged that requirements for attendance by representatives of the Controller/Ministry be deleted, particularly those in Article 180. These requirements represent an unwarranted intervention by government into the affairs of private, profit-making businesses. The fees imposed are an added financial burden. It would be preferable to increase the budget of the Ministry and Controller's office and increase the salaries of the officials who attend these meetings to offset their lost revenue/income than to continue the practice as a perquisite.

#### Article 175

The requirement for 75% of the shares to vote in favor of an issuance of convertible bonds or an increase in capital appears to this observer to be overly restrictive. Management should not be so constrained in arranging financing for the company.

As the REACH Initiative suggests, this provision may be an appropriate place to add to the list of matters upon which shareholders should vote at a special meeting such matters as approval of employee benefit plans, including employee stock purchase plans, or stock option programs for management.

Perhaps it would be stronger, however, to adopt a separate, explicit provision authorizing companies --

- to issue options, warrants and other rights to purchase their securities,
- to institute and maintain employee stock purchase and shareholder dividend reinvestment plans and
- to issue stock options to management as part of a shareholder approved incentive plan.

The following section dealing with rights and options from the Delaware Corporation Law may be helpful to the drafters as a sample provision:

#### *§ 157. Rights and options respecting stock*

*Subject to any provisions in the certificate of incorporation, every corporation may create and issue, whether or not in connection with the issue and sale of any shares of stock or other securities of the corporation, rights or options entitling the holders thereof to purchase from the corporation any shares of its capital stock of any class or classes, such rights or options to be evidenced by or in such instrument or instruments as shall be approved by the board of directors.*

*The terms upon which, including the time or times which may be limited or unlimited in duration, at or within which, and the price or prices at which any such shares may be purchased from the corporation upon the exercise of any such right or option, shall be such as shall be stated in the certificate of incorporation, or in a resolution adopted by the board of directors providing for the creation and issue of such rights or options, and, in every case, shall be set forth or incorporated by reference in the instrument or instruments evidencing such rights or options. In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuance of such rights or options and the sufficiency thereof shall be conclusive.*

*In case the shares of stock of the corporation to be issued upon the exercise of such rights or options shall be shares having a par value, the price or prices so to be received therefor shall not be less than the par value thereof. In case the shares of stock so to be issued shall be shares of stock without par value, the consideration therefor shall be determined in the manner provided in § 153 of this title.*

Other grants of authority I would recommend are to permit any company organized under the Jordan Companies Law --

- To buy back its own shares;
- To make tender offers for its shares or the shares of other companies;
- To make charitable contributions from company funds;
- To invest in the securities of other companies or businesses;<sup>1</sup> and
- To organize subsidiary companies.

#### Articles 180 and 182

See discussion above under Articles 169 - 176. The provision in Article 182 declaring a meeting not attended by the Controller to be void should be deleted, for reasons already noted.

#### Articles 185 - 191

I question the advantage of specifying a default fiscal year for companies by statute. Would it not suffice simply to require in the statute that a company fix its fiscal year in its articles of association?

Similarly, I question the value of restricting management's decisions with respect to the use of company revenues as is done in these articles. The percentage requirements are, perforce, arbitrary, and they result in limiting management's flexibility in allocating revenues among various company immediate, short- and long-term needs. Unless some compelling reason for their need is demonstrated, I recommend deleting these articles from the statute.

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<sup>1</sup> An example of a provision regarding investing in the securities of other companies that might be helpful is the following from the Delaware Corporation Law:

**§ 123. Powers respecting securities of other corporations or entities**

*Any corporation organized under the laws of this State may guarantee, purchase, take, receive, subscribe for or otherwise acquire; own, hold, use or otherwise employ; sell, lease, exchange, transfer or otherwise dispose of; mortgage, lend, pledge or otherwise deal in and with, bonds and other obligations of, or shares or other securities or interests in, or issued by, any other domestic or foreign corporation, partnership, association or individual, or by any government or agency or instrumentality thereof. A corporation while owner of any such securities may exercise all the rights, powers and privileges of ownership, including the right to vote.*

### **Part 7, Auditors Articles 192 - 203**

These provisions are good and should readily fit with any requirements established by the Securities Commission. Especially commendable are the provisions establishing accountability and the declaration that auditors are representatives of the shareholders (Article 199).

On its face, the definition of independence in Article 197 appears adequate. It may be useful, however, to review it to assure it adequately covers Jordanian practices. For example, why limit the disqualification only to "permanent" consulting, administrative or technical relationships? Could they not be limited to those within a specified time period, e.g., 5 years?

### **Part 8, Holding Companies**

I infer that these provisions are a mixture of a law against concentrations of ownership and control and accounting rules. I cannot comment on their efficacy; it depends on what policy makers perceive to be the need.

### **Part 9, Mutual Fund Companies**

Articles 209 - 210 should be deleted as they are superseded by the AMIR draft securities law provisions in Chapter 7, Collective Investment Schemes. They are inconsistent with Chapter 7, and, therefore, would create serious problems if not deleted.

### **Offshore companies, Articles 211 - 214**

The requirement for an offshore company to invest at least 5% of its capital in Jordan may be a serious impediment to large multinationals. It is not clear what purpose a 5% minimum serves.

Similarly, prohibiting offshore companies from raising capital in the Jordan capital market may be self-defeating to the development of the Jordan capital market. The clear purpose of the two provisions is to require foreign companies to bring fresh capital to Jordan, but that purpose might be better served by imposing those requirements in connection with the investment approval process.

### **Transformation from one form of organization to another**

#### Articles 216 & 218

These are other instances where the Controller is required to approve valuations. As noted in other contexts, I strongly recommend that an impartial private appraiser be relied upon and that there be no role assigned to the Controller/Minister. A valuation opinion rendered by a qualified financial institution or any other impartial third party competent to evaluate, with provisions for their accountability, would provide a preferable means of corroborating valuation.

#### Article 217(b)

The requirement for a 10% average annual profit over the preceding 3 years as a condition for transforming to a public shareholding company is severely restrictive and should be deleted. As in other contexts noted above, full disclosure of the material facts would provide investors with a basis for deciding whether or not to entrust funds to a company that has had limited or no

financial success. Many business firms suffer financial reverses when getting started, and they may be at a take-off point when they run out of capital and need to go to outside investors. For the investor, it may be a wonderful time to get in. This provision forecloses that.

#### Articles 215 - 221

The Ministerial approval provided for in these articles appears to me to send a signal to investors that the newly transformed business is sound. Yet, it is unrealistic to expect that any impartial evaluator can warrant this. If the transformed company were to fail, what would investors think? The government should not place itself in such a position.

If the proposal (made elsewhere in this memorandum) for creation of a new class of *private* shareholding companies is accepted, these provisions would require conforming amendments.

### **Chapter 2, Mergers**

#### Article 222

The requirement that merging companies must have objectives that are "identical or complementary" is ambiguous. Would financial synergy constitute complementarity? Imaginative managers may be able to find innovative ways to combine companies successfully. Why is any such restriction needed?

#### Article 223

It is not clear what this article accomplishes. It appears wholly gratuitous and unnecessary. I recommend its deletion to avoid confusion.

#### Articles 228 - 230

Again, it is urged that the Minister's role be deleted.

The valuation process should be left solely to a nongovernmental independent third parties. Why not let the companies form the Executive Committee? The valuation report should be presented to the shareholders, and the shareholders could be empowered to commission their own valuation opinion by a second appraiser at company expense. Disputes concerning valuation could be presented to a court or to the Controller for adjudication. Together with the auditors's reports required under Article 229, the process should provide ample safeguards for shareholders and creditors.

The key point is that there can never be certainty that mistakes or deception in these matters will be discovered by any overseer, no matter how skilled. The government cannot guarantee that problems will not develop. By assuming responsibility for protecting against invalid valuations, the government risks its credibility if a valuation proves to be way off the mark. In attempting to avoid mistakes, it is inevitable that the responsible government agency will be cautious to the point of becoming tightly constrictive and bureaucratic. This impedes innovation and risk-taking, both of which are critical elements of entrepreneurship.

#### Articles 231 - 239

The Controller/Minister role here is more of an arbiter than an evaluator, and the objections raised above do not apply. I offer not opinion on the efficacy of these provisions.

### **Part 12 Foreign Companies**

The issue here is whether all processes related to foreign companies seeking approval to do business in Jordan should be consolidated into one agency. Dividing authority among agencies inevitably leads to inconsistent requirements, lengthened approval processes and frustration for foreign investors. It is submitted that the tendency in other countries has been to adopt "one-stop shopping" for foreign investors.

The issues raised, however, transcend the legal niceties of Companies Law provisions and should be addressed as a separate policy review.

### **Part 13, Liquidation and Dissolution**

Only a summary of review of these provisions has been conducted to identify possible relationships between them and the proposed AMIR securities law. None was found.

Presumably, there will be some review of these provisions in connection with proposals to revise the bankruptcy laws.

### **Part 14 Supervision of companies**

The critical issue in Articles 273 - 277 is that there be no overlap and conflict between the Controller/Minister and the Commission. No problems under the proposed AMIR draft securities law would result from continuing to assign these powers to the Controller/Minister. Or, they could readily be assigned to the Securities Commission consistent with its other responsibilities with respect to companies with public investors. it would seem advisable not to divide responsibility based on the type of company involved, with the Controller/Minister having responsibility for oversight of non public companies and the Commission having responsibility for those with public investors. That kind of division would invite confusion and conflict.

### **Part 15, Penalties**

There is an overlap and duplication between the penalty provision in Articles 278 - 282 and the penalty provisions of the AMIR draft securities law. There is an inconsistency between Companies Law Article 279 and AMIR draft **Securities Law Article 79**, since both would cover many of the same acts. Yet the penalties are different: Article 279 sets a fine of JD 1,000-10,000; **Securities Law Article 79** sets the maximum fine at JD 20,000 with a percentage of the realized profit used as a base for calculation.

Similarly, Companies Law Article 278(a)(4) and AMIR draft **Securities Law Article 79A** overlap in that both could apply to the same act of disclosing false or misleading information.

To delete any of these provisions from the Companies Law would create a gap with respect to companies that are either exempt from the provisions of the securities law or do not come within that law because they do not involve public investors. Accordingly, it might be advisable to include a provision in the Companies Law to the effect that where a more specific penalty is provided in the Securities Law, the more specific penalty provision shall prevail.

The penalty for issuing bonds provided under Article 278(a)(3) should be repealed. This could become a trap for the unwary, and the provisions of subparagraph (4) seem broad enough to encompass fraud in the issuance of bonds.

